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INTERSTATE COMMERCE COMMISSION

LEASE OF RAILROAD EQUIPMENT

between

C. I. T. CORPORATION

and

GRAND TRUNK WESTERN RAILROAD COMPANY

Dated as of June 15, 1970

COLLATERAL ASSIGNMENT OF LEASE AND AGREEMENT dated as of June 15, 1970 (hereinafter called "this Assignment"), by and between C. I. T. CORPORATION, a New York corporation (hereinafter called the Company), acting through its agent, C. I. T. LEASING CORPORATION, a Delaware corporation, and THE FIRST PENNSYLVANIA BANKING AND TRUST COMPANY, acting as Agent (hereinafter called the Agent) pursuant to a Finance Agreement dated as of June 15, 1970 (hereinafter called the Finance Agreement), among the Agent and the Investors referred to therein (hereinafter called the Investors).

WHEREAS the Company has entered into a Conditional Sale Agreement dated as of June 15, 1970 (hereinafter called the Conditional Sale Agreement), with Bethlehem Steel Corporation, providing for the sale to the Company of such units of railroad equipment (hereinafter called the Units) described in Annex B to the Conditional Sale Agreement as are delivered to and accepted by the Company thereunder; and

WHEREAS the Manufacturer has assigned its interests in the Conditional Sale Agreement to the Agent, acting under the Finance Agreement, pursuant to an Agreement and Assignment dated as of June 15, 1970; and

WHEREAS the Company and Grand Trunk Western Railroad Company (hereinafter called the Lessee) have entered into a Lease of Railroad Equipment dated as of June 15, 1970 (hereinafter called the Lease), providing for the leasing by the Company to the Lessee of the Units; and

WHEREAS, in order to provide security for the obligations of the Company under the Conditional Sale Agreement and as an inducement to the Investors to invest in the Conditional Sale Indebtedness (as that term is defined in the Conditional Sale Agreement), the Company has agreed

to assign for security purposes its rights in, to and under the Lease to the Agent;

Now, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. Subject to the provisions of Paragraph 13 hereof, the Company hereby assigns, transfers and sets over unto the Agent, as collateral security for the payment and performance of the Company's obligations under the Conditional Sale Agreement, all the Company's right, title and interest as Lessor under the Lease, together with all rights, powers, privileges, and other benefits of the Company as Lessor under the Lease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Company from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages, payments with respect to the guarantee of the Conditional Sale Agreement by the Lessee provided for in § 17 of the Lease or otherwise (such moneys being hereinafter called the Payments), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Company, as Lessor, is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Company hereby irrevocably authorizes and empowers the Agent in its own name, or the name of its nominee, or in the name of the Company or as its attorney, to ask, demand, sue for, collect and receive any and all sums to which the Company is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof.

for any and all Payments due and to become due under or arising out of the Lease to which the Company is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which to the Agent may seem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all the Company's obligations under the Conditional Sale Agreement, this Assignment and all rights herein assigned to the Agent shall terminate, and all estate, right, title and interest of the Agent in and to the Lease shall revert to the Company.

6. The Company represents and warrants that (a) the execution and delivery by the Company of the Lease, this Assignment and the Conditional Sale Agreement have each been duly authorized, and the Lease, this Assignment and the Conditional Sale Agreement are and will remain the valid and binding obligations of the Company in accordance with their terms; (b) the Company has not executed any other assignment of the Lease and the Agent's right to receive all payments under the Lease is and will continue to be free and clear of any and all liens, agreements, security interests or other encumbrances, (c) notwithstanding this Assignment, the Company will conform and comply with each and all of the covenants and conditions in the Lease and the Conditional Sale Agreement set forth to be complied with by it, (d) to the knowledge of the Company, it has performed all obligations on its part to be performed under the Lease and the Conditional Sale Agreement on or prior to the date hereof and (e) the Lease and the Conditional Sale Agreement are in full force and effect and

have not been canceled and to the knowledge of the Company there has not occurred on or prior to the date hereof any event of default under the Conditional Sale Agreement or any event which with notice and/or lapse of time would constitute such an event of default.

If an event of default under the Conditional Sale Agreement shall occur and be continuing, the Agent may declare all sums secured hereby immediately due and payable and may at its option without notice and without regard to the adequacy of the security of the sums hereby secured, either in person or by an agent with or without bringing any action or proceeding or by a receiver to be appointed by a court, take possession of and operate the Units or any part thereof in accordance with the terms of the Conditional Sale Agreement and do any acts which the Agent deems proper to protect the security hereof, either with or without taking possession of the Units. The taking possession of the Units and the taking of any action permitted as aforesaid shall not cure or waive any default or waive, modify or affect any default hereunder or under the Lease or invalidate any act done hereunder.

7. The Company covenants and agrees with the Agent that in any suit, proceeding or action brought by the Agent, as assignee of the Company's right, title and interest under the Lease for any instalment of, or interest on, any rental or other sum owing thereunder, or to enforce any provisions of the Lease, the Company will save, indemnify and keep the Agent harmless from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever of the Lessee or its successors, arising out of a breach by the Company of any obligation under the Lease or arising out of any other indebtedness or liability at any time owing to the Lessee or its successors from the Company. Any and all such

for any and all Payments due and to become due under or arising out of the Lease to which the Company is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which to the Agent may seem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all the Company's obligations under the Conditional Sale Agreement, this Assignment and all rights herein assigned to the Agent shall terminate, and all estate, right, title and interest of the Agent in and to the Lease shall revert to the Company.

6. The Company represents and warrants that (a) the execution and delivery by the Company of the Lease, this Assignment and the Conditional Sale Agreement have each been duly authorized, and the Lease, this Assignment and the Conditional Sale Agreement are and will remain the valid and binding obligations of the Company in accordance with their terms; (b) the Company has not executed any other assignment of the Lease and the Agent's right to receive all payments under the Lease is and will continue to be free and clear of any and all liens, agreements, security interests or other encumbrances, (c) notwithstanding this Assignment, the Company will conform and comply with each and all of the covenants and conditions in the Lease and the Conditional Sale Agreement set forth to be complied with by it, (d) to the knowledge of the Company, it has performed all obligations on its part to be performed under the Lease and the Conditional Sale Agreement on or prior to the date hereof and (e) the Lease and the Conditional Sale Agreement are in full force and effect and

have not been canceled and to the knowledge of the Company there has not occurred on or prior to the date hereof any event of default under the Conditional Sale Agreement or any event which with notice and/or lapse of time would constitute such an event of default.

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7. The Company covenants and agrees with the Agent that in any suit, proceeding or action brought by the Agent, as assignee of the Company's right, title and interest under the Lease for any instalment of, or interest on, any rental or other sum owing thereunder, or to enforce any provisions of the Lease, the Company will save, indemnify and keep the Agent harmless from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever of the Lessee or its successors, arising out of a breach by the Company of any obligation under the Lease or arising out of any other indebtedness or liability at any time owing to the Lessee or its successors from the Company. Any and all such

the Conditional Sale Agreement has occurred and is then continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits assigned and transferred by the Company to the Agent by this Assignment.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

C. I. T. CORPORATION,

by C. I. T. LEASING CORPORATION,
as Agent,

by *J. M. Phillips*.....
Vice President

[CORPORATE SEAL]

Attest:

.....*Henry Lewis*.....
Assistant Secretary

THE FIRST PENNSYLVANIA
BANKING AND TRUST COMPANY,
as Agent,

by *[Signature]*.....
Vice President

[CORPORATE SEAL]

Attest:

.....*[Signature]*.....
Assistant Secretary

This Consent and Agreement, when accepted by the Agent by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of New York and, for all purposes, shall be construed in accordance with the laws of said State.

G.T.
Approved
as to form
T.W.T.
Solicitor

GRAND TRUNK WESTERN RAIL-
ROAD COMPANY,

by

P. A. Bander
Vice President

[CORPORATE SEAL]

Attest:

W. L. Allen
.....
ASSISTANT Secretary

The foregoing Consent and Agreement is hereby accepted, as of the 15th day of June, 1970.

THE FIRST PENNSYLVANIA BANKING
AND TRUST COMPANY,

by

W. L. Allen
.....
Vice President

the Conditional Sale Agreement has occurred and is then continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits assigned and transferred by the Company to the Agent by this Assignment.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

C. I. T. CORPORATION,

by C. I. T. LEASING CORPORATION,
as Agent,

by *J. M. Phillips*.....
Vice President

[CORPORATE SEAL]

Attest:

.....*Henry Lewis*.....
Assistant Secretary

THE FIRST PENNSYLVANIA
BANKING AND TRUST COMPANY,
as Agent,

by *[Signature]*.....
Vice President

[CORPORATE SEAL]

Attest:

.....*[Signature]*.....
Assistant Secretary

This Consent and Agreement, when accepted by the Agent by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of New York and, for all purposes, shall be construed in accordance with the laws of said State.

G.T.
Approved
as to form
T.W.T.
Solicitor

GRAND TRUNK WESTERN RAIL-
ROAD COMPANY,

by

P. A. Bander
Vice President

[CORPORATE SEAL]

Attest:

W. L. Allen
.....
ASSISTANT Secretary

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THE FIRST PENNSYLVANIA BANKING
AND TRUST COMPANY,

by

W. L. Allen
.....
Vice President

PROVINCE OF QUEBEC }
CITY OF MONTREAL } ss.:

On this 2nd day of July, 1970, before me personally appeared *S. G. Borden*, to me personally known, who, being by me duly sworn, says that he is a Vice President of GRAND TRUNK WESTERN RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was ~~the~~ free act and deed of said corporation.

A. L. Tremblay
Notary Public

[NOTARIAL SEAL]

My commission is for life.

Notary

after created on any of the lines of railroad of the Lessee may subject the Lessee's leasehold interest to the lien thereof) which may at any time be imposed on or with respect to any Unit including any accession thereto or the interests of the Lessor, the Vendor or the Lessee therein. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of the immediately succeeding paragraph hereof.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Units and to the use thereof by it upon its lines of railroad or upon lines of railroad over which the Lessee has trackage or other operating rights or over which railroad equipment of the Lessee is regularly operated pursuant to contract, and also to permit the use of the Units upon other railroads in the usual interchange of traffic (if such interchange is customary at the time), but only upon and subject to all the terms and conditions of this Lease and the Conditional Sale Agreement.

Nothing in this § 11 shall be deemed to restrict the right of the Lessee (i) to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety or (ii) to sublease any Unit to such subsidiary or affiliated corporations of the Lessee or the Guarantor as are at the time such sublease is executed domestic railroad corporations incorporated under the laws of any state of the United States of America or the District

This Consent and Agreement, when accepted by the Agent by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of New York and, for all purposes, shall be construed in accordance with the laws of said State.

G.T.
Approved
as to form
T.W.T.
Solicitor

GRAND TRUNK WESTERN RAIL-
ROAD COMPANY,

by

P. A. Bander
Vice President

[CORPORATE SEAL]

Attest:

W. L. Allen
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ASSISTANT Secretary

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So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Units and to the use thereof by it upon its lines of railroad or upon lines of railroad over which the Lessee has trackage or other operating rights or over which railroad equipment of the Lessee is regularly operated pursuant to contract, and also to permit the use of the Units upon other railroads in the usual interchange of traffic (if such interchange is customary at the time), but only upon and subject to all the terms and conditions of this Lease and the Conditional Sale Agreement.

Nothing in this § 11 shall be deemed to restrict the right of the Lessee (i) to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety or (ii) to sublease any Unit to such subsidiary or affiliated corporations of the Lessee or the Guarantor as are at the time such sublease is executed domestic railroad corporations incorporated under the laws of any state of the United States of America or the District

hereunto affixed and duly attested, as of the date first above written.

C. I. T. CORPORATION,

by C. I. T. LEASING CORPORATION,
as Agent,

by *J. M. Phillips*
Vice President

[CORPORATE SEAL]

Attest:

Wm. J. Lewis
Assistant Secretary

G.T.
Approved
as to form
T.W.T.
Secretary

GRAND TRUNK WESTERN RAILROAD
COMPANY,

by *P. A. Bander*
Vice President

[CORPORATE SEAL]

Attest:

Wm. J. Lewis
Assistant Secretary

STATE OF NEW YORK }
 COUNTY OF NEW YORK } ss.:

On this 17th day of July, 1970, before me personally appeared J. G. McPhillips, to me personally known, who, being by me duly sworn, says that he is a Vice President of C. I. T. LEASING CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Ruth E. Greene
 Notary Public

[NOTARIAL SEAL]

RUTH E. GREENE
 Notary Public, State of New York
 No. 03-1557810
 Qualified in Bronx County
 Certificate filed in New York County
 Commission Expires March 30, 1971

PROVINCE OF QUEBEC }
 CITY OF MONTREAL } ss.:

On this 15th day of July, 1970, before me personally appeared H. L. Landon, to me personally known, who, being by me duly sworn, says that he is a Vice President of GRAND TRUNK WESTERN RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

H. L. Landon
 Notary Public

[NOTARIAL SEAL]

My commission is for life.

A. the Lessor will be considered the owner of the Units; and

B. the Lessor will be entitled to depreciation deductions with respect to the Units, computed in accordance with any of the methods listed in Section 167(b) of the Internal Revenue Code of 1954, as amended to the date hereof, or, at the election of the Lessor in the case of Section 184 Units, Rapid Amortization Deductions with respect to such Section 184 Units (provided that such Section 184 Units are and retain their status as "qualified railroad rolling stock" within the meaning of Section 184(d) of the Internal Revenue Code of 1954, as amended to the date hereof).

§ 16. *Mileage Allowance; Subrogation.* Provided the Lessee is not in default hereunder, the Lessee shall be entitled to (i) all mileage allowances and other moneys payable by reason of the use of the Units, and any such mileage allowances or other moneys received by the Lessor shall be forthwith remitted to the Lessee, and (ii) the proceeds of any claim or right of the Lessor or the Lessee against third persons for injury, damage or loss with respect to any Unit or the use or operation thereof, including settlements pursuant to the rules of the Association of American Railroads, up to an amount equal to the Casualty Value of any Unit which shall have suffered a Casualty Occurrence paid by the Lessee to the Lessor or the actual expense of repair of a Unit not suffering a Casualty Occurrence incurred by the Lessee, as set forth in a certificate of the Treasurer or Chief Accounting Officer of the Lessee, and the Lessee shall be subrogated to the extent of the Lessee's interest to all the Lessor's rights of recovery therefor against any other person, firm or corporation. The Lessor hereby authorizes the Lessee to make settlement of, receive payment and receipt for any and all such claims on

after created on any of the lines of railroad of the Lessee may subject the Lessee's leasehold interest to the lien thereof) which may at any time be imposed on or with respect to any Unit including any accession thereto or the interests of the Lessor, the Vendor or the Lessee therein. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of the immediately succeeding paragraph hereof.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Units and to the use thereof by it upon its lines of railroad or upon lines of railroad over which the Lessee has trackage or other operating rights or over which railroad equipment of the Lessee is regularly operated pursuant to contract, and also to permit the use of the Units upon other railroads in the usual interchange of traffic (if such interchange is customary at the time), but only upon and subject to all the terms and conditions of this Lease and the Conditional Sale Agreement.

Nothing in this § 11 shall be deemed to restrict the right of the Lessee (i) to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety or (ii) to sublease any Unit to such subsidiary or affiliated corporations of the Lessee or the Guarantor as are at the time such sublease is executed domestic railroad corporations incorporated under the laws of any state of the United States of America or the District

hereunto affixed and duly attested, as of the date first above written.

C. I. T. CORPORATION,

by C. I. T. LEASING CORPORATION,
as Agent,

by *J. M. Phillips*
Vice President

[CORPORATE SEAL]

Attest:

Wm. J. Lewis
Assistant Secretary

G.T.
Approved
as to form
T.W.T.
Secretary

GRAND TRUNK WESTERN RAILROAD
COMPANY,

by *P. A. Bander*
Vice President

[CORPORATE SEAL]

Attest:

Wm. J. Lewis
Assistant Secretary

STATE OF NEW YORK }
 COUNTY OF NEW YORK } ss.:

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Ruth E. Greene
 Notary Public

[NOTARIAL SEAL]

RUTH E. GREENE
 Notary Public, State of New York
 No. 03-1557810
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H. L. Landon
 Notary Public

[NOTARIAL SEAL]

My commission is for life.

A. the Lessor will be considered the owner of the Units; and

B. the Lessor will be entitled to depreciation deductions with respect to the Units, computed in accordance with any of the methods listed in Section 167(b) of the Internal Revenue Code of 1954, as amended to the date hereof, or, at the election of the Lessor in the case of Section 184 Units, Rapid Amortization Deductions with respect to such Section 184 Units (provided that such Section 184 Units are and retain their status as "qualified railroad rolling stock" within the meaning of Section 184(d) of the Internal Revenue Code of 1954, as amended to the date hereof).

§ 16. *Mileage Allowance; Subrogation.* Provided the Lessee is not in default hereunder, the Lessee shall be entitled to (i) all mileage allowances and other moneys payable by reason of the use of the Units, and any such mileage allowances or other moneys received by the Lessor shall be forthwith remitted to the Lessee, and (ii) the proceeds of any claim or right of the Lessor or the Lessee against third persons for injury, damage or loss with respect to any Unit or the use or operation thereof, including settlements pursuant to the rules of the Association of American Railroads, up to an amount equal to the Casualty Value of any Unit which shall have suffered a Casualty Occurrence paid by the Lessee to the Lessor or the actual expense of repair of a Unit not suffering a Casualty Occurrence incurred by the Lessee, as set forth in a certificate of the Treasurer or Chief Accounting Officer of the Lessee, and the Lessee shall be subrogated to the extent of the Lessee's interest to all the Lessor's rights of recovery therefor against any other person, firm or corporation. The Lessor hereby authorizes the Lessee to make settlement of, receive payment and receipt for any and all such claims on

behalf of the Lessor, and the Lessor agrees to execute and deliver from time to time such instruments and do such other acts and things as may be necessary or appropriate more fully to evidence the Lessee's authority and/or to vest in the Lessee such proceeds to the extent of the Lessee's interest therein or to effect such subrogation; and in the event of any loss, damage or destruction in respect of which the Lessee is entitled to proceeds or subrogation as aforesaid, the Lessor shall refrain from doing any act or executing any instrument which would prejudice the right of the Lessee to such proceeds or to such subrogation.

§ 17. *Additional Covenants and Guaranty of the Lessee.*

As an inducement to the Vendor to enter into the assignment of the Conditional Sale Agreement, the Lessee unconditionally guarantees to the Vendor, and covenants with the Lessor to unconditionally guarantee to the Vendor, the due and punctual performance of all obligations of the Lessor and the due and punctual payment of any and all sums payable by the Lessor under the Conditional Sale Agreement including, but not limited to, that portion of the Purchase Price of the Equipment (as defined in the Conditional Sale Agreement) payable pursuant to subparagraph (b) of the third paragraph of Article 3 thereof (except for the obligations of the Lessor to make payment of the sums payable by the Lessor pursuant to (i) subparagraph (a) of the third paragraph of Article 3 and (ii) Articles 20 and 21, thereof) when due, whether at stated maturity or by declaration or otherwise, and in case any such payments or obligations are not so made or performed the Lessee agrees punctually to pay or perform the same, irrespective of any enforcement against the Lessor of any of the rights of the Vendor under the Conditional Sale Agreement; *provided, however*, that there shall be no obligation upon the Lessee to make the payments or perform the obliga-

tions aforementioned in this § 17 while or for so long as the Lessee shall not be in default under this Lease. The Lessee hereby agrees that its obligations hereunder shall be unconditional (and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever) irrespective of the genuineness, validity, regularity or enforceability of this Lease or the Conditional Sale Agreement or any other conduct of the Lessor, the Vendor and/or the Lessee which might otherwise constitute a legal or equitable discharge of a surety or guarantor and irrespective of the last paragraph of Article 3 of the Conditional Sale Agreement or any other circumstances which might limit the recourse of the Vendor to the Lessor or of the Lessor or the Vendor to the Lessee. The Lessee hereby waives diligence, presentment, demand for payment, notice of dishonor and protest. No waiver by the Lessor or the Vendor of any of their respective rights hereunder and no action by the Lessor or the Vendor to enforce any of their respective rights or failure to take, or delay in taking, any such action shall affect the obligations of the Lessee hereunder or under the Conditional Sale Agreement.

It is understood and agreed between the Lessor and the Lessee that any and all sums paid by the Lessee pursuant to the guarantee obligations aforementioned in this § 17 shall be thereupon deemed to have been received and paid in reduction or satisfaction, to the extent thereof, of any amount then or thereafter due or payable by the Lessee to the Lessor under this Lease.

Subject to the foregoing, in the event that the Lessee shall make any payments to the Vendor under the Conditional Sale Agreement on account of its guaranty hereunder, the Lessee hereby covenants and agrees that it shall not acquire any rights, by subrogation or otherwise, against the Lessor or with respect to any of the Units by reason of such payments, all such rights being hereby irrevocably

after created on any of the lines of railroad of the Lessee may subject the Lessee's leasehold interest to the lien thereof) which may at any time be imposed on or with respect to any Unit including any accession thereto or the interests of the Lessor, the Vendor or the Lessee therein. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of the immediately succeeding paragraph hereof.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Units and to the use thereof by it upon its lines of railroad or upon lines of railroad over which the Lessee has trackage or other operating rights or over which railroad equipment of the Lessee is regularly operated pursuant to contract, and also to permit the use of the Units upon other railroads in the usual interchange of traffic (if such interchange is customary at the time), but only upon and subject to all the terms and conditions of this Lease and the Conditional Sale Agreement.

Nothing in this § 11 shall be deemed to restrict the right of the Lessee (i) to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety or (ii) to sublease any Unit to such subsidiary or affiliated corporations of the Lessee or the Guarantor as are at the time such sublease is executed domestic railroad corporations incorporated under the laws of any state of the United States of America or the District

hereunto affixed and duly attested, as of the date first above written.

C. I. T. CORPORATION,

by C. I. T. LEASING CORPORATION,
as Agent,

by *J. M. Phillips*
Vice President

[CORPORATE SEAL]

Attest:

Wm. J. Lewis
Assistant Secretary

G.T.
Approved
as to form
T.W.T.
Secretary

GRAND TRUNK WESTERN RAILROAD
COMPANY,

by *P. A. Bander*
Vice President

[CORPORATE SEAL]

Attest:

Wm. J. Lewis
Assistant Secretary

STATE OF NEW YORK }
 COUNTY OF NEW YORK } ss.:

On this 17th day of July, 1970, before me personally appeared J. G. McPhillips, to me personally known, who, being by me duly sworn, says that he is a Vice President of C. I. T. LEASING CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Ruth E. Greene
 Notary Public

[NOTARIAL SEAL]

RUTH E. GREENE
 Notary Public, State of New York
 No. 03-1557810
 Qualified in Bronx County
 Certificate filed in New York County
 Commission Expires March 30, 1971

PROVINCE OF QUEBEC }
 CITY OF MONTREAL } ss.:

On this 15th day of July, 1970, before me personally appeared H. L. Landon, to me personally known, who, being by me duly sworn, says that he is a Vice President of GRAND TRUNK WESTERN RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

H. L. Landon
 Notary Public

[NOTARIAL SEAL]

My commission is for life.

A. the Lessor will be considered the owner of the Units; and

B. the Lessor will be entitled to depreciation deductions with respect to the Units, computed in accordance with any of the methods listed in Section 167(b) of the Internal Revenue Code of 1954, as amended to the date hereof, or, at the election of the Lessor in the case of Section 184 Units, Rapid Amortization Deductions with respect to such Section 184 Units (provided that such Section 184 Units are and retain their status as "qualified railroad rolling stock" within the meaning of Section 184(d) of the Internal Revenue Code of 1954, as amended to the date hereof).

§ 16. *Mileage Allowance; Subrogation.* Provided the Lessee is not in default hereunder, the Lessee shall be entitled to (i) all mileage allowances and other moneys payable by reason of the use of the Units, and any such mileage allowances or other moneys received by the Lessor shall be forthwith remitted to the Lessee, and (ii) the proceeds of any claim or right of the Lessor or the Lessee against third persons for injury, damage or loss with respect to any Unit or the use or operation thereof, including settlements pursuant to the rules of the Association of American Railroads, up to an amount equal to the Casualty Value of any Unit which shall have suffered a Casualty Occurrence paid by the Lessee to the Lessor or the actual expense of repair of a Unit not suffering a Casualty Occurrence incurred by the Lessee, as set forth in a certificate of the Treasurer or Chief Accounting Officer of the Lessee, and the Lessee shall be subrogated to the extent of the Lessee's interest to all the Lessor's rights of recovery therefor against any other person, firm or corporation. The Lessor hereby authorizes the Lessee to make settlement of, receive payment and receipt for any and all such claims on

behalf of the Lessor, and the Lessor agrees to execute and deliver from time to time such instruments and do such other acts and things as may be necessary or appropriate more fully to evidence the Lessee's authority and/or to vest in the Lessee such proceeds to the extent of the Lessee's interest therein or to effect such subrogation; and in the event of any loss, damage or destruction in respect of which the Lessee is entitled to proceeds or subrogation as aforesaid, the Lessor shall refrain from doing any act or executing any instrument which would prejudice the right of the Lessee to such proceeds or to such subrogation.

§ 17. *Additional Covenants and Guaranty of the Lessee.*

As an inducement to the Vendor to enter into the assignment of the Conditional Sale Agreement, the Lessee unconditionally guarantees to the Vendor, and covenants with the Lessor to unconditionally guarantee to the Vendor, the due and punctual performance of all obligations of the Lessor and the due and punctual payment of any and all sums payable by the Lessor under the Conditional Sale Agreement including, but not limited to, that portion of the Purchase Price of the Equipment (as defined in the Conditional Sale Agreement) payable pursuant to subparagraph (b) of the third paragraph of Article 3 thereof (except for the obligations of the Lessor to make payment of the sums payable by the Lessor pursuant to (i) subparagraph (a) of the third paragraph of Article 3 and (ii) Articles 20 and 21, thereof) when due, whether at stated maturity or by declaration or otherwise, and in case any such payments or obligations are not so made or performed the Lessee agrees punctually to pay or perform the same, irrespective of any enforcement against the Lessor of any of the rights of the Vendor under the Conditional Sale Agreement; *provided, however*, that there shall be no obligation upon the Lessee to make the payments or perform the obliga-

tions aforementioned in this § 17 while or for so long as the Lessee shall not be in default under this Lease. The Lessee hereby agrees that its obligations hereunder shall be unconditional (and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever) irrespective of the genuineness, validity, regularity or enforceability of this Lease or the Conditional Sale Agreement or any other conduct of the Lessor, the Vendor and/or the Lessee which might otherwise constitute a legal or equitable discharge of a surety or guarantor and irrespective of the last paragraph of Article 3 of the Conditional Sale Agreement or any other circumstances which might limit the recourse of the Vendor to the Lessor or of the Lessor or the Vendor to the Lessee. The Lessee hereby waives diligence, presentment, demand for payment, notice of dishonor and protest. No waiver by the Lessor or the Vendor of any of their respective rights hereunder and no action by the Lessor or the Vendor to enforce any of their respective rights or failure to take, or delay in taking, any such action shall affect the obligations of the Lessee hereunder or under the Conditional Sale Agreement.

It is understood and agreed between the Lessor and the Lessee that any and all sums paid by the Lessee pursuant to the guarantee obligations aforementioned in this § 17 shall be thereupon deemed to have been received and paid in reduction or satisfaction, to the extent thereof, of any amount then or thereafter due or payable by the Lessee to the Lessor under this Lease.

Subject to the foregoing, in the event that the Lessee shall make any payments to the Vendor under the Conditional Sale Agreement on account of its guaranty hereunder, the Lessee hereby covenants and agrees that it shall not acquire any rights, by subrogation or otherwise, against the Lessor or with respect to any of the Units by reason of such payments, all such rights being hereby irrevocably

after created on any of the lines of railroad of the Lessee may subject the Lessee's leasehold interest to the lien thereof) which may at any time be imposed on or with respect to any Unit including any accession thereto or the interests of the Lessor, the Vendor or the Lessee therein. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of the immediately succeeding paragraph hereof.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Units and to the use thereof by it upon its lines of railroad or upon lines of railroad over which the Lessee has trackage or other operating rights or over which railroad equipment of the Lessee is regularly operated pursuant to contract, and also to permit the use of the Units upon other railroads in the usual interchange of traffic (if such interchange is customary at the time), but only upon and subject to all the terms and conditions of this Lease and the Conditional Sale Agreement.

Nothing in this § 11 shall be deemed to restrict the right of the Lessee (i) to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety or (ii) to sublease any Unit to such subsidiary or affiliated corporations of the Lessee or the Guarantor as are at the time such sublease is executed domestic railroad corporations incorporated under the laws of any state of the United States of America or the District

hereunto affixed and duly attested, as of the date first above written.

C. I. T. CORPORATION,

by C. I. T. LEASING CORPORATION,
as Agent,

by *J. M. Phillips*
Vice President

[CORPORATE SEAL]

Attest:

Wm. J. Lewis
Assistant Secretary

G.T.
Approved
as to form
T.W.T.
Secretary

GRAND TRUNK WESTERN RAILROAD
COMPANY,

by *P. A. Bander*
Vice President

[CORPORATE SEAL]

Attest:

Wm. J. Lewis
Assistant Secretary

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

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Ruth E. Greene
Notary Public

[NOTARIAL SEAL]

RUTH E. GREENE
Notary Public, State of New York
No. 03-1557810
Qualified in Bronx County
Certificate filed in New York County
Commission Expires March 30, 1971

PROVINCE OF QUEBEC }
CITY OF MONTREAL } ss.:

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H. L. Landon
Notary Public

[NOTARIAL SEAL]

My commission is for life.

A. the Lessor will be considered the owner of the Units; and

B. the Lessor will be entitled to depreciation deductions with respect to the Units, computed in accordance with any of the methods listed in Section 167(b) of the Internal Revenue Code of 1954, as amended to the date hereof, or, at the election of the Lessor in the case of Section 184 Units, Rapid Amortization Deductions with respect to such Section 184 Units (provided that such Section 184 Units are and retain their status as "qualified railroad rolling stock" within the meaning of Section 184(d) of the Internal Revenue Code of 1954, as amended to the date hereof).

§ 16. *Mileage Allowance; Subrogation.* Provided the Lessee is not in default hereunder, the Lessee shall be entitled to (i) all mileage allowances and other moneys payable by reason of the use of the Units, and any such mileage allowances or other moneys received by the Lessor shall be forthwith remitted to the Lessee, and (ii) the proceeds of any claim or right of the Lessor or the Lessee against third persons for injury, damage or loss with respect to any Unit or the use or operation thereof, including settlements pursuant to the rules of the Association of American Railroads, up to an amount equal to the Casualty Value of any Unit which shall have suffered a Casualty Occurrence paid by the Lessee to the Lessor or the actual expense of repair of a Unit not suffering a Casualty Occurrence incurred by the Lessee, as set forth in a certificate of the Treasurer or Chief Accounting Officer of the Lessee, and the Lessee shall be subrogated to the extent of the Lessee's interest to all the Lessor's rights of recovery therefor against any other person, firm or corporation. The Lessor hereby authorizes the Lessee to make settlement of, receive payment and receipt for any and all such claims on

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So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Units and to the use thereof by it upon its lines of railroad or upon lines of railroad over which the Lessee has trackage or other operating rights or over which railroad equipment of the Lessee is regularly operated pursuant to contract, and also to permit the use of the Units upon other railroads in the usual interchange of traffic (if such interchange is customary at the time), but only upon and subject to all the terms and conditions of this Lease and the Conditional Sale Agreement.

Nothing in this § 11 shall be deemed to restrict the right of the Lessee (i) to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety or (ii) to sublease any Unit to such subsidiary or affiliated corporations of the Lessee or the Guarantor as are at the time such sublease is executed domestic railroad corporations incorporated under the laws of any state of the United States of America or the District

hereunto affixed and duly attested, as of the date first above written.

C. I. T. CORPORATION,

by C. I. T. LEASING CORPORATION,
as Agent,

by *J. M. Phillips*
Vice President

[CORPORATE SEAL]

Attest:

Wm. J. Lewis
Assistant Secretary

G.T.
Approved
as to form
T.W.T.
Secretary

GRAND TRUNK WESTERN RAILROAD
COMPANY,

by *P. A. Bander*
Vice President

[CORPORATE SEAL]

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Ruth E. Greene
Notary Public

[NOTARIAL SEAL]

RUTH E. GREENE
Notary Public, State of New York
No. 03-1557810
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H. L. Landon
Notary Public

[NOTARIAL SEAL]

My commission is for life.

A. the Lessor will be considered the owner of the Units; and

B. the Lessor will be entitled to depreciation deductions with respect to the Units, computed in accordance with any of the methods listed in Section 167(b) of the Internal Revenue Code of 1954, as amended to the date hereof, or, at the election of the Lessor in the case of Section 184 Units, Rapid Amortization Deductions with respect to such Section 184 Units (provided that such Section 184 Units are and retain their status as "qualified railroad rolling stock" within the meaning of Section 184(d) of the Internal Revenue Code of 1954, as amended to the date hereof).

§ 16. *Mileage Allowance; Subrogation.* Provided the Lessee is not in default hereunder, the Lessee shall be entitled to (i) all mileage allowances and other moneys payable by reason of the use of the Units, and any such mileage allowances or other moneys received by the Lessor shall be forthwith remitted to the Lessee, and (ii) the proceeds of any claim or right of the Lessor or the Lessee against third persons for injury, damage or loss with respect to any Unit or the use or operation thereof, including settlements pursuant to the rules of the Association of American Railroads, up to an amount equal to the Casualty Value of any Unit which shall have suffered a Casualty Occurrence paid by the Lessee to the Lessor or the actual expense of repair of a Unit not suffering a Casualty Occurrence incurred by the Lessee, as set forth in a certificate of the Treasurer or Chief Accounting Officer of the Lessee, and the Lessee shall be subrogated to the extent of the Lessee's interest to all the Lessor's rights of recovery therefor against any other person, firm or corporation. The Lessor hereby authorizes the Lessee to make settlement of, receive payment and receipt for any and all such claims on

behalf of the Lessor, and the Lessor agrees to execute and deliver from time to time such instruments and do such other acts and things as may be necessary or appropriate more fully to evidence the Lessee's authority and/or to vest in the Lessee such proceeds to the extent of the Lessee's interest therein or to effect such subrogation; and in the event of any loss, damage or destruction in respect of which the Lessee is entitled to proceeds or subrogation as aforesaid, the Lessor shall refrain from doing any act or executing any instrument which would prejudice the right of the Lessee to such proceeds or to such subrogation.

§ 17. *Additional Covenants and Guaranty of the Lessee.*

As an inducement to the Vendor to enter into the assignment of the Conditional Sale Agreement, the Lessee unconditionally guarantees to the Vendor, and covenants with the Lessor to unconditionally guarantee to the Vendor, the due and punctual performance of all obligations of the Lessor and the due and punctual payment of any and all sums payable by the Lessor under the Conditional Sale Agreement including, but not limited to, that portion of the Purchase Price of the Equipment (as defined in the Conditional Sale Agreement) payable pursuant to subparagraph (b) of the third paragraph of Article 3 thereof (except for the obligations of the Lessor to make payment of the sums payable by the Lessor pursuant to (i) subparagraph (a) of the third paragraph of Article 3 and (ii) Articles 20 and 21, thereof) when due, whether at stated maturity or by declaration or otherwise, and in case any such payments or obligations are not so made or performed the Lessee agrees punctually to pay or perform the same, irrespective of any enforcement against the Lessor of any of the rights of the Vendor under the Conditional Sale Agreement; *provided, however*, that there shall be no obligation upon the Lessee to make the payments or perform the obliga-

tions aforementioned in this § 17 while or for so long as the Lessee shall not be in default under this Lease. The Lessee hereby agrees that its obligations hereunder shall be unconditional (and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever) irrespective of the genuineness, validity, regularity or enforceability of this Lease or the Conditional Sale Agreement or any other conduct of the Lessor, the Vendor and/or the Lessee which might otherwise constitute a legal or equitable discharge of a surety or guarantor and irrespective of the last paragraph of Article 3 of the Conditional Sale Agreement or any other circumstances which might limit the recourse of the Vendor to the Lessor or of the Lessor or the Vendor to the Lessee. The Lessee hereby waives diligence, presentment, demand for payment, notice of dishonor and protest. No waiver by the Lessor or the Vendor of any of their respective rights hereunder and no action by the Lessor or the Vendor to enforce any of their respective rights or failure to take, or delay in taking, any such action shall affect the obligations of the Lessee hereunder or under the Conditional Sale Agreement.

It is understood and agreed between the Lessor and the Lessee that any and all sums paid by the Lessee pursuant to the guarantee obligations aforementioned in this § 17 shall be thereupon deemed to have been received and paid in reduction or satisfaction, to the extent thereof, of any amount then or thereafter due or payable by the Lessee to the Lessor under this Lease.

Subject to the foregoing, in the event that the Lessee shall make any payments to the Vendor under the Conditional Sale Agreement on account of its guaranty hereunder, the Lessee hereby covenants and agrees that it shall not acquire any rights, by subrogation or otherwise, against the Lessor or with respect to any of the Units by reason of such payments, all such rights being hereby irrevocably

released, discharged and waived by the Lessee; *provided, however*, that after the payment by the Lessee to the Vendor under the Conditional Sale Agreement of all sums payable by the Lessor under the Conditional Sale Agreement, the Lessee shall, by subrogation, be entitled to the rights of the Vendor under Conditional Sale Agreement against the Lessor by reason of any such payment made by it pursuant to this § 17, to the extent, but only to the extent, that the Lessor has received “income and proceeds from the Equipment” (as defined in Article 3 of the Conditional Sale Agreement) and has not applied such income and proceeds to the payment, in accordance with the Conditional Sale Agreement, of sums payable by the Lessor to the Vendor under the Conditional Sale Agreement.

§ 18. *Recording; Expenses.* Prior to the delivery and acceptance of any of the Units, the Lessor will, at the expense of the Lessor, cause this Lease and any assignment hereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and to be duly deposited in the office of the Registrar General of Canada; and the Lessor will, at the expense of the Lessor, cause the required notice of such deposit forthwith thereafter to be published in the *Canada Gazette* in accordance with Section 148 of the Railway Act of Canada.

The Lessee will, from time to time and at its expense, do and perform any act and will execute, acknowledge and deliver any and all further instruments required by law or reasonably requested by the Lessor for the purpose of proper protection, to the satisfaction of the Lessor and its counsel, of the Vendor’s and the Lessor’s respective interests hereunder in the Units, or for the purpose of carrying out the intention of this Lease and any assignment hereof. The Lessee will promptly furnish to the Vendor and the

Lessor evidence of such execution, acknowledgment and delivery.

The Lessor will pay the reasonable costs and expenses involved in the preparation and printing of this Lease. The Lessor and the Lessee will each, respectively, bear the fees and disbursements of any counsel which it may respectively retain.

§ 19. *Interest on Overdue Rentals.* Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay also an amount equal to 11% per annum of the amount of the overdue rentals for the period of time during which they are overdue.

§ 20. *Notices.* Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States certified mails, first-class postage prepaid, addressed as follows:

if to the Lessor, at 650 Madison Avenue, New York, N. Y. 10022, *attention of* the President;

if to the Lessee, at 131 West Lafayette Boulevard, Detroit, Michigan 48226, *attention of* the Secretary and at P. O. Box 8100, Montreal 101, Quebec, Canada, *attention of* the Treasurer;

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

§ 21. *Severability; Effect and Modification of Lease.* Any provision of this Lease which is prohibited or unen-

hereunto affixed and duly attested, as of the date first above written.

C. I. T. CORPORATION,

by C. I. T. LEASING CORPORATION,
as Agent,

by *J. M. Phillips*
Vice President

[CORPORATE SEAL]

Attest:

Wm. J. Lewis
Assistant Secretary

G.T.
Approved
as to form
T.W.T.
Secretary

GRAND TRUNK WESTERN RAILROAD
COMPANY,

by *P. A. Bander*
Vice President

[CORPORATE SEAL]

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Ruth E. Greene
Notary Public

[NOTARIAL SEAL]

RUTH E. GREENE
Notary Public, State of New York
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behalf of the Lessor, and the Lessor agrees to execute and deliver from time to time such instruments and do such other acts and things as may be necessary or appropriate more fully to evidence the Lessee's authority and/or to vest in the Lessee such proceeds to the extent of the Lessee's interest therein or to effect such subrogation; and in the event of any loss, damage or destruction in respect of which the Lessee is entitled to proceeds or subrogation as aforesaid, the Lessor shall refrain from doing any act or executing any instrument which would prejudice the right of the Lessee to such proceeds or to such subrogation.

§ 17. *Additional Covenants and Guaranty of the Lessee.*

As an inducement to the Vendor to enter into the assignment of the Conditional Sale Agreement, the Lessee unconditionally guarantees to the Vendor, and covenants with the Lessor to unconditionally guarantee to the Vendor, the due and punctual performance of all obligations of the Lessor and the due and punctual payment of any and all sums payable by the Lessor under the Conditional Sale Agreement including, but not limited to, that portion of the Purchase Price of the Equipment (as defined in the Conditional Sale Agreement) payable pursuant to subparagraph (b) of the third paragraph of Article 3 thereof (except for the obligations of the Lessor to make payment of the sums payable by the Lessor pursuant to (i) subparagraph (a) of the third paragraph of Article 3 and (ii) Articles 20 and 21, thereof) when due, whether at stated maturity or by declaration or otherwise, and in case any such payments or obligations are not so made or performed the Lessee agrees punctually to pay or perform the same, irrespective of any enforcement against the Lessor of any of the rights of the Vendor under the Conditional Sale Agreement; *provided, however*, that there shall be no obligation upon the Lessee to make the payments or perform the obliga-

tions aforementioned in this § 17 while or for so long as the Lessee shall not be in default under this Lease. The Lessee hereby agrees that its obligations hereunder shall be unconditional (and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever) irrespective of the genuineness, validity, regularity or enforceability of this Lease or the Conditional Sale Agreement or any other conduct of the Lessor, the Vendor and/or the Lessee which might otherwise constitute a legal or equitable discharge of a surety or guarantor and irrespective of the last paragraph of Article 3 of the Conditional Sale Agreement or any other circumstances which might limit the recourse of the Vendor to the Lessor or of the Lessor or the Vendor to the Lessee. The Lessee hereby waives diligence, presentment, demand for payment, notice of dishonor and protest. No waiver by the Lessor or the Vendor of any of their respective rights hereunder and no action by the Lessor or the Vendor to enforce any of their respective rights or failure to take, or delay in taking, any such action shall affect the obligations of the Lessee hereunder or under the Conditional Sale Agreement.

It is understood and agreed between the Lessor and the Lessee that any and all sums paid by the Lessee pursuant to the guarantee obligations aforementioned in this § 17 shall be thereupon deemed to have been received and paid in reduction or satisfaction, to the extent thereof, of any amount then or thereafter due or payable by the Lessee to the Lessor under this Lease.

Subject to the foregoing, in the event that the Lessee shall make any payments to the Vendor under the Conditional Sale Agreement on account of its guaranty hereunder, the Lessee hereby covenants and agrees that it shall not acquire any rights, by subrogation or otherwise, against the Lessor or with respect to any of the Units by reason of such payments, all such rights being hereby irrevocably

released, discharged and waived by the Lessee; *provided, however*, that after the payment by the Lessee to the Vendor under the Conditional Sale Agreement of all sums payable by the Lessor under the Conditional Sale Agreement, the Lessee shall, by subrogation, be entitled to the rights of the Vendor under Conditional Sale Agreement against the Lessor by reason of any such payment made by it pursuant to this § 17, to the extent, but only to the extent, that the Lessor has received “income and proceeds from the Equipment” (as defined in Article 3 of the Conditional Sale Agreement) and has not applied such income and proceeds to the payment, in accordance with the Conditional Sale Agreement, of sums payable by the Lessor to the Vendor under the Conditional Sale Agreement.

§ 18. *Recording; Expenses.* Prior to the delivery and acceptance of any of the Units, the Lessor will, at the expense of the Lessor, cause this Lease and any assignment hereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and to be duly deposited in the office of the Registrar General of Canada; and the Lessor will, at the expense of the Lessor, cause the required notice of such deposit forthwith thereafter to be published in the *Canada Gazette* in accordance with Section 148 of the Railway Act of Canada.

The Lessee will, from time to time and at its expense, do and perform any act and will execute, acknowledge and deliver any and all further instruments required by law or reasonably requested by the Lessor for the purpose of proper protection, to the satisfaction of the Lessor and its counsel, of the Vendor’s and the Lessor’s respective interests hereunder in the Units, or for the purpose of carrying out the intention of this Lease and any assignment hereof. The Lessee will promptly furnish to the Vendor and the

Lessor evidence of such execution, acknowledgment and delivery.

The Lessor will pay the reasonable costs and expenses involved in the preparation and printing of this Lease. The Lessor and the Lessee will each, respectively, bear the fees and disbursements of any counsel which it may respectively retain.

§ 19. *Interest on Overdue Rentals.* Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay also an amount equal to 11% per annum of the amount of the overdue rentals for the period of time during which they are overdue.

§ 20. *Notices.* Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States certified mails, first-class postage prepaid, addressed as follows:

if to the Lessor, at 650 Madison Avenue, New York, N. Y. 10022, *attention of* the President;

if to the Lessee, at 131 West Lafayette Boulevard, Detroit, Michigan 48226, *attention of* the Secretary and at P. O. Box 8100, Montreal 101, Quebec, Canada, *attention of* the Treasurer;

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

§ 21. *Severability; Effect and Modification of Lease.* Any provision of this Lease which is prohibited or unen-

forceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

This Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the Units and supersedes all other agreements, oral or written, with respect to the Units. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the parties hereto.

§ 22. *Execution.* This Lease may be executed in several counterparts, each of which so executed shall be deemed to be an original, and in each case such counterparts together shall constitute but one and the same instrument.

Although this Lease is dated as of June 15, 1970, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§ 23. *Law Governing.* This Lease shall be construed in accordance with the laws of New York.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names by duly authorized officers and their respective corporate seals to be

hereunto affixed and duly attested, as of the date first above written.

C. I. T. CORPORATION,

by C. I. T. LEASING CORPORATION,
as Agent,

by *J. M. Phillips*
Vice President

[CORPORATE SEAL]

Attest:

Wm. J. Lewis
Assistant Secretary

G.T.
Approved
as to form
T.W.T.
Secretary

GRAND TRUNK WESTERN RAILROAD
COMPANY,

by *P. A. Bander*
Vice President

[CORPORATE SEAL]

Attest:

Wm. J. Lewis
Assistant Secretary

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On this 17th day of July, 1970, before me personally appeared J. G. McPhillips, to me personally known, who, being by me duly sworn, says that he is a Vice President of C. I. T. LEASING CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Ruth E. Greene
Notary Public

[NOTARIAL SEAL]

RUTH E. GREENE
Notary Public, State of New York
No. 03-1557810
Qualified in Bronx County
Certificate filed in New York County
Commission Expires March 30, 1971

PROVINCE OF QUEBEC }
CITY OF MONTREAL } ss.:

On this 15th day of July, 1970, before me personally appeared H. L. Landon, to me personally known, who, being by me duly sworn, says that he is a Vice President of GRAND TRUNK WESTERN RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

H. L. Landon
Notary Public

[NOTARIAL SEAL]

My commission is for life.

SCHEDULE A

<u>Type</u>	<u>Manufacturer's Plant</u>	<u>Quantity</u>	<u>Road Numbers (inclusive)</u>	<u>Unit Base Price</u>	<u>Total Base Price</u>
89/4" flush deck flat cars	Johnstown, Pennsylvania	68	GTW 303326- 303393	\$16,463	\$1,119,484

LEASE OF RAILROAD EQUIPMENT

between

C. I. T. CORPORATION

and

GRAND TRUNK WESTERN RAILROAD COMPANY

Dated as of June 15, 1970

LEASE OF RAILROAD EQUIPMENT dated as of June 15, 1970, between C. I. T. CORPORATION, a New York corporation (hereinafter called the Lessor), acting through its agent, C. I. T. LEASING CORPORATION, a Delaware corporation, and GRAND TRUNK WESTERN RAILROAD COMPANY, a Michigan corporation (hereinafter called the Lessee).

WHEREAS, the Lessor has entered into a Conditional Sale Agreement dated as of June 15, 1970 (hereinafter called the Conditional Sale Agreement), with Bethlehem Steel Corporation (hereinafter referred to as the Manufacturer), wherein the Manufacturer agrees to manufacture, sell and deliver to the Lessor the units of railroad equipment described in Schedule A hereto; and

WHEREAS, the Manufacturer has assigned its interests in the Conditional Sale Agreement to the First Pennsylvania Banking and Trust Company, as Agent (hereinafter referred to as the Vendor); and

WHEREAS, the Lessee desires to lease all the units of said railroad equipment, or such lesser number as are delivered and accepted and settled for under the Conditional Sale Agreement on or prior to December 15, 1970 (hereinafter called the Units), at the rentals and for the terms and upon the conditions hereinafter provided; and

WHEREAS, Canadian National Railway Company, a corporation duly incorporated under the laws of Canada (hereinafter called the Guarantor), of which the Lessee is a wholly-owned subsidiary, is, concurrently with the execution and delivery of this Lease, entering into a Guaranty Agreement dated as of June 15, 1970 (hereinafter called the Guaranty Agreement), with the Vendor and the Lessor, pursuant to which the Guarantor is guaranteeing to the Lessor and the Vendor the due and punctual payment of the sums payable by, and the due and punctual performance of all other obligations of, the Lessee under this Lease;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions, but, upon default of the Lessee hereunder, subject to all the rights and remedies of the Vendor under the Conditional Sale Agreement:

§ 1. *Delivery and Acceptance of Units.* The Lessor will cause each Unit to be tendered to the Lessee at the point or points within the United States of America at which, and on the date or dates on which, such Unit is delivered to the Lessor under the Conditional Sale Agreement. Upon such tender, the Lessee will cause an authorized representative of the Lessee to inspect the same, and if such Unit is found to be in good order, to accept delivery of such Unit and to execute and deliver to the Lessor and to the Manufacturer a certificate of acceptance (hereinafter called the Certificate of Delivery), whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease. In no event shall the Lessee place any Unit in service or otherwise use any Unit prior to the Lessee's acceptance of delivery of such Unit hereunder.

The Lessee represents and warrants that, at the time of delivery of each Unit to the Lessee, such Unit will not have been used by the Lessee and no amortization or depreciation will have been claimed by the Lessee with respect thereto.

§ 2. *Rentals.* Units subject to this lease with road numbers GTW 303326-303344, inclusive, are sometimes hereinafter called Section 184 Units and Units subject to this lease with road numbers GTW 303345-303393, inclusive are sometimes hereinafter called Section 167 Units. The Lessee agrees to pay to the Lessor as rental for each Unit

on each side of such Unit, in letters not less than one inch in height, the following words:

"THE FIRST PENNSYLVANIA BANKING AND TRUST
COMPANY, PHILADELPHIA, PENNSYLVANIA, AGENT—
OWNER"

or other appropriate words designated by the Lessor, with appropriate changes therein and additions thereto as from time to time may be required by law in order to protect the title of the Lessor or the Vendor to such Unit and the rights of the Lessor under this Lease and of the Vendor under the Conditional Sale Agreement. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such names and word or words shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Lessee will not change the identifying number of any Unit except in accordance with a statement of new identifying numbers to be substituted therefor, which statement previously shall have been filed with the Vendor and the Lessor by the Lessee and filed, recorded or deposited in all public offices where this Lease will have been filed, recorded or deposited.

Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on the Units as a designation that might be interpreted as a claim of ownership; *provided, however*, that the Lessee may cause the Units to be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates on railroad equipment used by them of the same or a similar type for convenience of identification of their rights to use the Units as permitted under this Lease.

§ 5. *Taxes.* All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the

Lessor with respect to the amount of any local, state, federal or Canadian (Dominion or Provincial) or Mexican taxes (other than any federal, Canadian [Dominion or Provincial] or Mexican income tax [to the extent that the Lessor receives credit for such taxes against its United States federal income tax liability] payable by the Lessor in consequence of the receipt of payments provided herein and other than the aggregate of all state or city income taxes or franchise taxes measured by net income based on such receipts, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided), assessments, duties or license fees, and any charges, fines or penalties in connection therewith (all such expenses, taxes, assessments, duties, license fees, charges, fines and penalties being hereinafter called impositions), hereafter levied or imposed upon or in connection with or measured by, this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or the Conditional Sale Agreement, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every part of such Unit free and clear of all impositions which might in any way affect the title of the Lessor or result in a lien upon any such Unit; *provided, however*, that the Lessee shall be under no obligation to pay any impositions so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Lessor, adversely affect the property or rights of the Lessor hereunder or under the Conditional Sale Agreement. If any

on each side of such Unit, in letters not less than one inch in height, the following words:

"THE FIRST PENNSYLVANIA BANKING AND TRUST
COMPANY, PHILADELPHIA, PENNSYLVANIA, AGENT—
OWNER"

or other appropriate words designated by the Lessor, with appropriate changes therein and additions thereto as from time to time may be required by law in order to protect the title of the Lessor or the Vendor to such Unit and the rights of the Lessor under this Lease and of the Vendor under the Conditional Sale Agreement. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such names and word or words shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Lessee will not change the identifying number of any Unit except in accordance with a statement of new identifying numbers to be substituted therefor, which statement previously shall have been filed with the Vendor and the Lessor by the Lessee and filed, recorded or deposited in all public offices where this Lease will have been filed, recorded or deposited.

Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on the Units as a designation that might be interpreted as a claim of ownership; *provided, however*, that the Lessee may cause the Units to be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates on railroad equipment used by them of the same or a similar type for convenience of identification of their rights to use the Units as permitted under this Lease.

§ 5. *Taxes.* All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the

Lessor with respect to the amount of any local, state, federal or Canadian (Dominion or Provincial) or Mexican taxes (other than any federal, Canadian [Dominion or Provincial] or Mexican income tax [to the extent that the Lessor receives credit for such taxes against its United States federal income tax liability] payable by the Lessor in consequence of the receipt of payments provided herein and other than the aggregate of all state or city income taxes or franchise taxes measured by net income based on such receipts, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided), assessments, duties or license fees, and any charges, fines or penalties in connection therewith (all such expenses, taxes, assessments, duties, license fees, charges, fines and penalties being hereinafter called impositions), hereafter levied or imposed upon or in connection with or measured by, this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or the Conditional Sale Agreement, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every part of such Unit free and clear of all impositions which might in any way affect the title of the Lessor or result in a lien upon any such Unit; *provided, however*, that the Lessee shall be under no obligation to pay any impositions so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Lessor, adversely affect the property or rights of the Lessor hereunder or under the Conditional Sale Agreement. If any

B. the Lessee shall make or permit any unauthorized assignment or transfer of this Lease or of possession of the Units, or any thereof;

C. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein and such default shall continue for 25 days after written notice from the Lessor specifying the default and demanding that the same be remedied;

D. any proceedings shall be commenced by or against the Lessee or the Guarantor for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the obligations of the Lessee hereunder or the Guarantor under the Guaranty Agreement) and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease or of the Guarantor under the Guaranty Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Lessee or the Guarantor or for the property of the Lessee or the Guarantor in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceeding shall have been commenced, whichever shall be earlier; or

E. a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by

the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. If the Lessor shall elect to abandon any Unit which has suffered a Casualty Occurrence or which after the expiration of this Lease the Lessor and the Lessee shall have deemed to have suffered a Casualty Occurrence, it may deliver written notice to such effect to the Lessee and the Lessee shall thereupon assume and hold the Lessor harmless from all liability arising in respect of any responsibility of ownership thereof, from and after receipt of such notice.

§ 14. *Opinions of Counsel for the Lessee, the Guarantor, the Lessor and the Manufacturer.* On each Closing Date (as that term is defined in the Conditional Sale Agreement), the Lessee will deliver to the Lessor and the Vendor counterparts, addressed to the Lessor and the Vendor, in scope and substance satisfactory to the Lessor and the Vendor and their respective counsel of:

(i) the written opinion of counsel for the Lessee to the effect that:

A. the Lessee is a corporation legally incorporated and validly existing, in good standing, under the laws of the jurisdiction of its incorporation, with adequate corporate power to enter into this Lease;

B. this Lease and any consent and agreement executed by the Lessee (hereinafter called the Consent) in connection with any assignment hereof to the Vendor have been duly authorized, executed and delivered by the Lessee and constitute legal and valid agreements binding upon the Lessee and enforceable in accordance with their terms;

C. upon the due filing and recordation of this Lease, the Conditional Sale Agreement and the Agreement and Assignment dated as of June 15, 1970 (hereinafter called the Assignment), between the Manufacturer and the Vendor, with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, no other act, filing, recording or deposit (or giving of notice) in respect of this Lease is necessary in order to protect the interests hereunder of the Lessor and the Vendor in and to the Units, in any State of the United States of America and the District of Columbia;

D. no approval is required from any public regulatory body with respect to the entering into or performance of this Lease or execution of the Consent by the Lessee, or if any such approval is required, it has been properly obtained;

E. the entering into and performance of this Lease and the execution of the Consent will not result in any breach of, or constitute a default under any indenture, mortgage, deed of trust or other agreement or instrument to which the Lessee is a party or by which it may be bound; and

F. no mortgage, deed of trust, or other lien of any nature whatsoever which now covers or affects, or which may hereafter cover or affect, any property or interests therein of the Lessee now attaches or hereafter will attach to the Units or in any manner affects or will affect adversely the Lessor's right, title and interest therein (except to the extent that the provisions of any mortgage now or hereafter created on any of the lines of railroad of the Lessee

may subject the Lessee's leasehold interest to the lien thereof); and

(ii) the written opinion of counsel for the Guarantor to the effect that:

A. the Guarantor is a corporation legally incorporated and validly existing, in good standing, under the laws of the jurisdiction of its incorporation, with adequate corporate power to enter into the Guaranty Agreement;

B. the Guaranty Agreement has been duly authorized, executed and delivered by the Guarantor and constitutes a legal and valid agreement binding upon the Guarantor and enforceable in accordance with its terms;

C. upon the due deposit of this Lease, any assignment of this Lease to the Vendor, the Conditional Sale Agreement and the Assignment (as defined in the Conditional Sale Agreement) in the office of the Registrar General of Canada and upon the giving of notice of such deposit in the Canada Gazette in accordance with Section 148 of the Railway Act of Canada, no other act, filing, recording or deposit (or giving of notice) in respect of this Lease is necessary in order to protect the interests hereunder of the Lessor and the Vendor in and to the Units, in the Dominion of Canada or any Province or Territory thereof;

D. no approval is required of any governmental ministry or agency or public regulatory body with respect to the entering into or performance of the Guaranty Agreement by the Guarantor, or if any

the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. If the Lessor shall elect to abandon any Unit which has suffered a Casualty Occurrence or which after the expiration of this Lease the Lessor and the Lessee shall have deemed to have suffered a Casualty Occurrence, it may deliver written notice to such effect to the Lessee and the Lessee shall thereupon assume and hold the Lessor harmless from all liability arising in respect of any responsibility of ownership thereof, from and after receipt of such notice.

§ 14. *Opinions of Counsel for the Lessee, the Guarantor, the Lessor and the Manufacturer.* On each Closing Date (as that term is defined in the Conditional Sale Agreement), the Lessee will deliver to the Lessor and the Vendor counterparts, addressed to the Lessor and the Vendor, in scope and substance satisfactory to the Lessor and the Vendor and their respective counsel of:

(i) the written opinion of counsel for the Lessee to the effect that:

A. the Lessee is a corporation legally incorporated and validly existing, in good standing, under the laws of the jurisdiction of its incorporation, with adequate corporate power to enter into this Lease;

B. this Lease and any consent and agreement executed by the Lessee (hereinafter called the Consent) in connection with any assignment hereof to the Vendor have been duly authorized, executed and delivered by the Lessee and constitute legal and valid agreements binding upon the Lessee and enforceable in accordance with their terms;

C. upon the due filing and recordation of this Lease, the Conditional Sale Agreement and the Agreement and Assignment dated as of June 15, 1970 (hereinafter called the Assignment), between the Manufacturer and the Vendor, with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, no other act, filing, recording or deposit (or giving of notice) in respect of this Lease is necessary in order to protect the interests hereunder of the Lessor and the Vendor in and to the Units, in any State of the United States of America and the District of Columbia;

D. no approval is required from any public regulatory body with respect to the entering into or performance of this Lease or execution of the Consent by the Lessee, or if any such approval is required, it has been properly obtained;

E. the entering into and performance of this Lease and the execution of the Consent will not result in any breach of, or constitute a default under any indenture, mortgage, deed of trust or other agreement or instrument to which the Lessee is a party or by which it may be bound; and

F. no mortgage, deed of trust, or other lien of any nature whatsoever which now covers or affects, or which may hereafter cover or affect, any property or interests therein of the Lessee now attaches or hereafter will attach to the Units or in any manner affects or will affect adversely the Lessor's right, title and interest therein (except to the extent that the provisions of any mortgage now or hereafter created on any of the lines of railroad of the Lessee

may subject the Lessee's leasehold interest to the lien thereof); and

(ii) the written opinion of counsel for the Guarantor to the effect that:

A. the Guarantor is a corporation legally incorporated and validly existing, in good standing, under the laws of the jurisdiction of its incorporation, with adequate corporate power to enter into the Guaranty Agreement;

B. the Guaranty Agreement has been duly authorized, executed and delivered by the Guarantor and constitutes a legal and valid agreement binding upon the Guarantor and enforceable in accordance with its terms;

C. upon the due deposit of this Lease, any assignment of this Lease to the Vendor, the Conditional Sale Agreement and the Assignment (as defined in the Conditional Sale Agreement) in the office of the Registrar General of Canada and upon the giving of notice of such deposit in the Canada Gazette in accordance with Section 148 of the Railway Act of Canada, no other act, filing, recording or deposit (or giving of notice) in respect of this Lease is necessary in order to protect the interests hereunder of the Lessor and the Vendor in and to the Units, in the Dominion of Canada or any Province or Territory thereof;

D. no approval is required of any governmental ministry or agency or public regulatory body with respect to the entering into or performance of the Guaranty Agreement by the Guarantor, or if any

such approval is required, it has been duly obtained;
and

E. the entering into and performance of the Guaranty Agreement will not result in any breach of, or constitute a default under any indenture, mortgage, deed of trust or other agreement or instrument to which the Guarantor is a party or by which it may be bound.

On each Closing Date, the Lessor will deliver to the Vendor, the Lessee and the Guarantor counterparts, addressed to the Vendor, the Lessee and the Guarantor, in scope and substance satisfactory to the Vendor, the Lessee and the Guarantor and their respective counsel:

(i) of the written opinion of counsel for the Lessor to the effect that:

A. the Lessor is a corporation legally incorporated and validly existing, in good standing, under the laws of the jurisdiction of its incorporation, with adequate corporate power to enter into this Lease; and

B. this Lease and any assignment hereof to the Vendor have been duly authorized, executed and delivered by the Lessor and constitute legal and valid agreements binding upon the parties thereto and enforceable in accordance with their terms; and

(ii) of the written opinion of counsel for the Manufacturer to the effect that at the time of delivery thereof to the Lessor under the Conditional Sale Agreement, each Unit was free of all claims, liens, security interests and other encumbrances except only the rights of the Company under the Conditional Sale Agreement and the rights of the Lessee under this Lease.

B. the Lessee shall make or permit any unauthorized assignment or transfer of this Lease or of possession of the Units, or any thereof;

C. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein and such default shall continue for 25 days after written notice from the Lessor specifying the default and demanding that the same be remedied;

D. any proceedings shall be commenced by or against the Lessee or the Guarantor for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the obligations of the Lessee hereunder or the Guarantor under the Guaranty Agreement) and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease or of the Guarantor under the Guaranty Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Lessee or the Guarantor or for the property of the Lessee or the Guarantor in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceeding shall have been commenced, whichever shall be earlier; or

E. a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by

the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. If the Lessor shall elect to abandon any Unit which has suffered a Casualty Occurrence or which after the expiration of this Lease the Lessor and the Lessee shall have deemed to have suffered a Casualty Occurrence, it may deliver written notice to such effect to the Lessee and the Lessee shall thereupon assume and hold the Lessor harmless from all liability arising in respect of any responsibility of ownership thereof, from and after receipt of such notice.

§ 14. *Opinions of Counsel for the Lessee, the Guarantor, the Lessor and the Manufacturer.* On each Closing Date (as that term is defined in the Conditional Sale Agreement), the Lessee will deliver to the Lessor and the Vendor counterparts, addressed to the Lessor and the Vendor, in scope and substance satisfactory to the Lessor and the Vendor and their respective counsel of:

(i) the written opinion of counsel for the Lessee to the effect that:

A. the Lessee is a corporation legally incorporated and validly existing, in good standing, under the laws of the jurisdiction of its incorporation, with adequate corporate power to enter into this Lease;

B. this Lease and any consent and agreement executed by the Lessee (hereinafter called the Consent) in connection with any assignment hereof to the Vendor have been duly authorized, executed and delivered by the Lessee and constitute legal and valid agreements binding upon the Lessee and enforceable in accordance with their terms;

C. upon the due filing and recordation of this Lease, the Conditional Sale Agreement and the Agreement and Assignment dated as of June 15, 1970 (hereinafter called the Assignment), between the Manufacturer and the Vendor, with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, no other act, filing, recording or deposit (or giving of notice) in respect of this Lease is necessary in order to protect the interests hereunder of the Lessor and the Vendor in and to the Units, in any State of the United States of America and the District of Columbia;

D. no approval is required from any public regulatory body with respect to the entering into or performance of this Lease or execution of the Consent by the Lessee, or if any such approval is required, it has been properly obtained;

E. the entering into and performance of this Lease and the execution of the Consent will not result in any breach of, or constitute a default under any indenture, mortgage, deed of trust or other agreement or instrument to which the Lessee is a party or by which it may be bound; and

F. no mortgage, deed of trust, or other lien of any nature whatsoever which now covers or affects, or which may hereafter cover or affect, any property or interests therein of the Lessee now attaches or hereafter will attach to the Units or in any manner affects or will affect adversely the Lessor's right, title and interest therein (except to the extent that the provisions of any mortgage now or hereafter created on any of the lines of railroad of the Lessee

may subject the Lessee's leasehold interest to the lien thereof); and

(ii) the written opinion of counsel for the Guarantor to the effect that:

A. the Guarantor is a corporation legally incorporated and validly existing, in good standing, under the laws of the jurisdiction of its incorporation, with adequate corporate power to enter into the Guaranty Agreement;

B. the Guaranty Agreement has been duly authorized, executed and delivered by the Guarantor and constitutes a legal and valid agreement binding upon the Guarantor and enforceable in accordance with its terms;

C. upon the due deposit of this Lease, any assignment of this Lease to the Vendor, the Conditional Sale Agreement and the Assignment (as defined in the Conditional Sale Agreement) in the office of the Registrar General of Canada and upon the giving of notice of such deposit in the Canada Gazette in accordance with Section 148 of the Railway Act of Canada, no other act, filing, recording or deposit (or giving of notice) in respect of this Lease is necessary in order to protect the interests hereunder of the Lessor and the Vendor in and to the Units, in the Dominion of Canada or any Province or Territory thereof;

D. no approval is required of any governmental ministry or agency or public regulatory body with respect to the entering into or performance of the Guaranty Agreement by the Guarantor, or if any

such approval is required, it has been duly obtained;
and

E. the entering into and performance of the Guaranty Agreement will not result in any breach of, or constitute a default under any indenture, mortgage, deed of trust or other agreement or instrument to which the Guarantor is a party or by which it may be bound.

On each Closing Date, the Lessor will deliver to the Vendor, the Lessee and the Guarantor counterparts, addressed to the Vendor, the Lessee and the Guarantor, in scope and substance satisfactory to the Vendor, the Lessee and the Guarantor and their respective counsel:

(i) of the written opinion of counsel for the Lessor to the effect that:

A. the Lessor is a corporation legally incorporated and validly existing, in good standing, under the laws of the jurisdiction of its incorporation, with adequate corporate power to enter into this Lease; and

B. this Lease and any assignment hereof to the Vendor have been duly authorized, executed and delivered by the Lessor and constitute legal and valid agreements binding upon the parties thereto and enforceable in accordance with their terms; and

(ii) of the written opinion of counsel for the Manufacturer to the effect that at the time of delivery thereof to the Lessor under the Conditional Sale Agreement, each Unit was free of all claims, liens, security interests and other encumbrances except only the rights of the Company under the Conditional Sale Agreement and the rights of the Lessee under this Lease.

§ 15. *Federal Income Taxes; Opinion of Tax Counsel.*

The Lessor, as the owner of each Unit, shall be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended to the date hereof, to an owner of property, including (without limitation) an allowance for the Rapid Amortization Deduction (as defined in § 9 of this Lease) with respect to Section 184 Units available to non-railroad lessors of railroad equipment. If the Lessor shall lose, or shall not have or shall lose the right to claim, or there shall be disallowed with respect to the Lessor, all or any portion of the Rapid Amortization Deduction with respect to a Section 184 Unit as a result of such Section 184 Unit not being, or any use of such Section 184 Unit which prevents such Section 184 Unit from being, "qualified railroad rolling stock" within the meaning of Section 184(d) of the Internal Revenue Code of 1954, as amended to the date hereof, or any regulations issued or promulgated by the Internal Revenue Service thereunder, the rental rate applicable to such Section 184 Unit set forth in § 2 of this Lease shall, on and after the next succeeding rental payment date after written notice to the Lessee by the Lessor that such Rapid Amortization Deduction has not been claimed, or if claimed and then disallowed on and after the next succeeding rental date after payment of the tax attributable thereto, be increased by such amount for such Section 184 Unit which, in the reasonable opinion of the Lessor, will cause the Lessor's net return in respect of such Section 184 Unit under this Lease to equal the net return that would have been available if the Lessor had been entitled to utilization of all or such portion of the Rapid Amortization Deduction which was not claimed or was disallowed and the Lessee shall forthwith pay to the Lessor the amount of any interest which may be assessed by the United States against the Lessor attributable to the

loss of all or any portion of the Rapid Amortization Deduction. The Lessor agrees that if, in the opinion of its independent tax counsel (herein referred to as Counsel), a bona fide claim to all or a portion of the Rapid Amortization Deduction on any Section 184 Unit exists in respect of which the Lessee is required to pay increased rental and interest as aforesaid to the Lessor as above provided, the Lessor shall, upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by Counsel in order to sustain such claim. The Lessor may take such action prior to making payment of the amounts claimed pursuant to a notice of disallowance or may make such payment and then sue for a refund. In the latter event, if the final determination shall be adverse to the Lessor, the Lessee shall pay to Lessor interest on the amount of the tax paid attributable to the Rapid Amortization Deduction disallowed, computed at the rate of $10\frac{1}{4}\%$ per annum from the date of payment of such tax to the date the Lessee shall reimburse the Lessor for such tax in accordance with the provisions of this § 15. The Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have indemnified the Lessor for all liabilities and expenses which may be entailed therein and shall have furnished the Lessor with such reasonable security therefor as may be requested.

The Lessee's agreement to pay any sums which may become payable pursuant to this § 15 shall survive the expiration or other termination of this Lease.

On or before the first Closing Date occurring under the Conditional Sale Agreement, the Lessor, shall have received a written opinion of Messrs. Cravath, Swaine & Moore addressed to the Lessor to the effect that for federal income tax purposes and upon such review and on the basis of such understandings as such counsel deem necessary:

A. the Lessor will be considered the owner of the Units; and

B. the Lessor will be entitled to depreciation deductions with respect to the Units, computed in accordance with any of the methods listed in Section 167(b) of the Internal Revenue Code of 1954, as amended to the date hereof, or, at the election of the Lessor in the case of Section 184 Units, Rapid Amortization Deductions with respect to such Section 184 Units (provided that such Section 184 Units are and retain their status as "qualified railroad rolling stock" within the meaning of Section 184(d) of the Internal Revenue Code of 1954, as amended to the date hereof).

§ 16. *Mileage Allowance; Subrogation.* Provided the Lessee is not in default hereunder, the Lessee shall be entitled to (i) all mileage allowances and other moneys payable by reason of the use of the Units, and any such mileage allowances or other moneys received by the Lessor shall be forthwith remitted to the Lessee, and (ii) the proceeds of any claim or right of the Lessor or the Lessee against third persons for injury, damage or loss with respect to any Unit or the use or operation thereof, including settlements pursuant to the rules of the Association of American Railroads, up to an amount equal to the Casualty Value of any Unit which shall have suffered a Casualty Occurrence paid by the Lessee to the Lessor or the actual expense of repair of a Unit not suffering a Casualty Occurrence incurred by the Lessee, as set forth in a certificate of the Treasurer or Chief Accounting Officer of the Lessee, and the Lessee shall be subrogated to the extent of the Lessee's interest to all the Lessor's rights of recovery therefor against any other person, firm or corporation. The Lessor hereby authorizes the Lessee to make settlement of, receive payment and receipt for any and all such claims on

C. upon the due filing and recordation of this Lease, the Conditional Sale Agreement and the Agreement and Assignment dated as of June 15, 1970 (hereinafter called the Assignment), between the Manufacturer and the Vendor, with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, no other act, filing, recording or deposit (or giving of notice) in respect of this Lease is necessary in order to protect the interests hereunder of the Lessor and the Vendor in and to the Units, in any State of the United States of America and the District of Columbia;

D. no approval is required from any public regulatory body with respect to the entering into or performance of this Lease or execution of the Consent by the Lessee, or if any such approval is required, it has been properly obtained;

E. the entering into and performance of this Lease and the execution of the Consent will not result in any breach of, or constitute a default under any indenture, mortgage, deed of trust or other agreement or instrument to which the Lessee is a party or by which it may be bound; and

F. no mortgage, deed of trust, or other lien of any nature whatsoever which now covers or affects, or which may hereafter cover or affect, any property or interests therein of the Lessee now attaches or hereafter will attach to the Units or in any manner affects or will affect adversely the Lessor's right, title and interest therein (except to the extent that the provisions of any mortgage now or hereafter created on any of the lines of railroad of the Lessee

may subject the Lessee's leasehold interest to the lien thereof); and

(ii) the written opinion of counsel for the Guarantor to the effect that:

A. the Guarantor is a corporation legally incorporated and validly existing, in good standing, under the laws of the jurisdiction of its incorporation, with adequate corporate power to enter into the Guaranty Agreement;

B. the Guaranty Agreement has been duly authorized, executed and delivered by the Guarantor and constitutes a legal and valid agreement binding upon the Guarantor and enforceable in accordance with its terms;

C. upon the due deposit of this Lease, any assignment of this Lease to the Vendor, the Conditional Sale Agreement and the Assignment (as defined in the Conditional Sale Agreement) in the office of the Registrar General of Canada and upon the giving of notice of such deposit in the Canada Gazette in accordance with Section 148 of the Railway Act of Canada, no other act, filing, recording or deposit (or giving of notice) in respect of this Lease is necessary in order to protect the interests hereunder of the Lessor and the Vendor in and to the Units, in the Dominion of Canada or any Province or Territory thereof;

D. no approval is required of any governmental ministry or agency or public regulatory body with respect to the entering into or performance of the Guaranty Agreement by the Guarantor, or if any

the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. If the Lessor shall elect to abandon any Unit which has suffered a Casualty Occurrence or which after the expiration of this Lease the Lessor and the Lessee shall have deemed to have suffered a Casualty Occurrence, it may deliver written notice to such effect to the Lessee and the Lessee shall thereupon assume and hold the Lessor harmless from all liability arising in respect of any responsibility of ownership thereof, from and after receipt of such notice.

§ 14. *Opinions of Counsel for the Lessee, the Guarantor, the Lessor and the Manufacturer.* On each Closing Date (as that term is defined in the Conditional Sale Agreement), the Lessee will deliver to the Lessor and the Vendor counterparts, addressed to the Lessor and the Vendor, in scope and substance satisfactory to the Lessor and the Vendor and their respective counsel of:

(i) the written opinion of counsel for the Lessee to the effect that:

A. the Lessee is a corporation legally incorporated and validly existing, in good standing, under the laws of the jurisdiction of its incorporation, with adequate corporate power to enter into this Lease;

B. this Lease and any consent and agreement executed by the Lessee (hereinafter called the Consent) in connection with any assignment hereof to the Vendor have been duly authorized, executed and delivered by the Lessee and constitute legal and valid agreements binding upon the Lessee and enforceable in accordance with their terms;

C. upon the due filing and recordation of this Lease, the Conditional Sale Agreement and the Agreement and Assignment dated as of June 15, 1970 (hereinafter called the Assignment), between the Manufacturer and the Vendor, with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, no other act, filing, recording or deposit (or giving of notice) in respect of this Lease is necessary in order to protect the interests hereunder of the Lessor and the Vendor in and to the Units, in any State of the United States of America and the District of Columbia;

D. no approval is required from any public regulatory body with respect to the entering into or performance of this Lease or execution of the Consent by the Lessee, or if any such approval is required, it has been properly obtained;

E. the entering into and performance of this Lease and the execution of the Consent will not result in any breach of, or constitute a default under any indenture, mortgage, deed of trust or other agreement or instrument to which the Lessee is a party or by which it may be bound; and

F. no mortgage, deed of trust, or other lien of any nature whatsoever which now covers or affects, or which may hereafter cover or affect, any property or interests therein of the Lessee now attaches or hereafter will attach to the Units or in any manner affects or will affect adversely the Lessor's right, title and interest therein (except to the extent that the provisions of any mortgage now or hereafter created on any of the lines of railroad of the Lessee

may subject the Lessee's leasehold interest to the lien thereof); and

(ii) the written opinion of counsel for the Guarantor to the effect that:

A. the Guarantor is a corporation legally incorporated and validly existing, in good standing, under the laws of the jurisdiction of its incorporation, with adequate corporate power to enter into the Guaranty Agreement;

B. the Guaranty Agreement has been duly authorized, executed and delivered by the Guarantor and constitutes a legal and valid agreement binding upon the Guarantor and enforceable in accordance with its terms;

C. upon the due deposit of this Lease, any assignment of this Lease to the Vendor, the Conditional Sale Agreement and the Assignment (as defined in the Conditional Sale Agreement) in the office of the Registrar General of Canada and upon the giving of notice of such deposit in the Canada Gazette in accordance with Section 148 of the Railway Act of Canada, no other act, filing, recording or deposit (or giving of notice) in respect of this Lease is necessary in order to protect the interests hereunder of the Lessor and the Vendor in and to the Units, in the Dominion of Canada or any Province or Territory thereof;

D. no approval is required of any governmental ministry or agency or public regulatory body with respect to the entering into or performance of the Guaranty Agreement by the Guarantor, or if any

such approval is required, it has been duly obtained;
and

E. the entering into and performance of the Guaranty Agreement will not result in any breach of, or constitute a default under any indenture, mortgage, deed of trust or other agreement or instrument to which the Guarantor is a party or by which it may be bound.

On each Closing Date, the Lessor will deliver to the Vendor, the Lessee and the Guarantor counterparts, addressed to the Vendor, the Lessee and the Guarantor, in scope and substance satisfactory to the Vendor, the Lessee and the Guarantor and their respective counsel:

(i) of the written opinion of counsel for the Lessor to the effect that:

A. the Lessor is a corporation legally incorporated and validly existing, in good standing, under the laws of the jurisdiction of its incorporation, with adequate corporate power to enter into this Lease; and

B. this Lease and any assignment hereof to the Vendor have been duly authorized, executed and delivered by the Lessor and constitute legal and valid agreements binding upon the parties thereto and enforceable in accordance with their terms; and

(ii) of the written opinion of counsel for the Manufacturer to the effect that at the time of delivery thereof to the Lessor under the Conditional Sale Agreement, each Unit was free of all claims, liens, security interests and other encumbrances except only the rights of the Company under the Conditional Sale Agreement and the rights of the Lessee under this Lease.

§ 15. *Federal Income Taxes; Opinion of Tax Counsel.*

The Lessor, as the owner of each Unit, shall be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended to the date hereof, to an owner of property, including (without limitation) an allowance for the Rapid Amortization Deduction (as defined in § 9 of this Lease) with respect to Section 184 Units available to non-railroad lessors of railroad equipment. If the Lessor shall lose, or shall not have or shall lose the right to claim, or there shall be disallowed with respect to the Lessor, all or any portion of the Rapid Amortization Deduction with respect to a Section 184 Unit as a result of such Section 184 Unit not being, or any use of such Section 184 Unit which prevents such Section 184 Unit from being, "qualified railroad rolling stock" within the meaning of Section 184(d) of the Internal Revenue Code of 1954, as amended to the date hereof, or any regulations issued or promulgated by the Internal Revenue Service thereunder, the rental rate applicable to such Section 184 Unit set forth in § 2 of this Lease shall, on and after the next succeeding rental payment date after written notice to the Lessee by the Lessor that such Rapid Amortization Deduction has not been claimed, or if claimed and then disallowed on and after the next succeeding rental date after payment of the tax attributable thereto, be increased by such amount for such Section 184 Unit which, in the reasonable opinion of the Lessor, will cause the Lessor's net return in respect of such Section 184 Unit under this Lease to equal the net return that would have been available if the Lessor had been entitled to utilization of all or such portion of the Rapid Amortization Deduction which was not claimed or was disallowed and the Lessee shall forthwith pay to the Lessor the amount of any interest which may be assessed by the United States against the Lessor attributable to the

loss of all or any portion of the Rapid Amortization Deduction. The Lessor agrees that if, in the opinion of its independent tax counsel (herein referred to as Counsel), a bona fide claim to all or a portion of the Rapid Amortization Deduction on any Section 184 Unit exists in respect of which the Lessee is required to pay increased rental and interest as aforesaid to the Lessor as above provided, the Lessor shall, upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by Counsel in order to sustain such claim. The Lessor may take such action prior to making payment of the amounts claimed pursuant to a notice of disallowance or may make such payment and then sue for a refund. In the latter event, if the final determination shall be adverse to the Lessor, the Lessee shall pay to Lessor interest on the amount of the tax paid attributable to the Rapid Amortization Deduction disallowed, computed at the rate of $10\frac{1}{4}\%$ per annum from the date of payment of such tax to the date the Lessee shall reimburse the Lessor for such tax in accordance with the provisions of this § 15. The Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have indemnified the Lessor for all liabilities and expenses which may be entailed therein and shall have furnished the Lessor with such reasonable security therefor as may be requested.

The Lessee's agreement to pay any sums which may become payable pursuant to this § 15 shall survive the expiration or other termination of this Lease.

On or before the first Closing Date occurring under the Conditional Sale Agreement, the Lessor, shall have received a written opinion of Messrs. Cravath, Swaine & Moore addressed to the Lessor to the effect that for federal income tax purposes and upon such review and on the basis of such understandings as such counsel deem necessary:

A. the Lessor will be considered the owner of the Units; and

B. the Lessor will be entitled to depreciation deductions with respect to the Units, computed in accordance with any of the methods listed in Section 167(b) of the Internal Revenue Code of 1954, as amended to the date hereof, or, at the election of the Lessor in the case of Section 184 Units, Rapid Amortization Deductions with respect to such Section 184 Units (provided that such Section 184 Units are and retain their status as "qualified railroad rolling stock" within the meaning of Section 184(d) of the Internal Revenue Code of 1954, as amended to the date hereof).

§ 16. *Mileage Allowance; Subrogation.* Provided the Lessee is not in default hereunder, the Lessee shall be entitled to (i) all mileage allowances and other moneys payable by reason of the use of the Units, and any such mileage allowances or other moneys received by the Lessor shall be forthwith remitted to the Lessee, and (ii) the proceeds of any claim or right of the Lessor or the Lessee against third persons for injury, damage or loss with respect to any Unit or the use or operation thereof, including settlements pursuant to the rules of the Association of American Railroads, up to an amount equal to the Casualty Value of any Unit which shall have suffered a Casualty Occurrence paid by the Lessee to the Lessor or the actual expense of repair of a Unit not suffering a Casualty Occurrence incurred by the Lessee, as set forth in a certificate of the Treasurer or Chief Accounting Officer of the Lessee, and the Lessee shall be subrogated to the extent of the Lessee's interest to all the Lessor's rights of recovery therefor against any other person, firm or corporation. The Lessor hereby authorizes the Lessee to make settlement of, receive payment and receipt for any and all such claims on

behalf of the Lessor, and the Lessor agrees to execute and deliver from time to time such instruments and do such other acts and things as may be necessary or appropriate more fully to evidence the Lessee's authority and/or to vest in the Lessee such proceeds to the extent of the Lessee's interest therein or to effect such subrogation; and in the event of any loss, damage or destruction in respect of which the Lessee is entitled to proceeds or subrogation as aforesaid, the Lessor shall refrain from doing any act or executing any instrument which would prejudice the right of the Lessee to such proceeds or to such subrogation.

§ 17. *Additional Covenants and Guaranty of the Lessee.* As an inducement to the Vendor to enter into the assignment of the Conditional Sale Agreement, the Lessee unconditionally guarantees to the Vendor, and covenants with the Lessor to unconditionally guarantee to the Vendor, the due and punctual performance of all obligations of the Lessor and the due and punctual payment of any and all sums payable by the Lessor under the Conditional Sale Agreement including, but not limited to, that portion of the Purchase Price of the Equipment (as defined in the Conditional Sale Agreement) payable pursuant to subparagraph (b) of the third paragraph of Article 3 thereof (except for the obligations of the Lessor to make payment of the sums payable by the Lessor pursuant to (i) subparagraph (a) of the third paragraph of Article 3 and (ii) Articles 20 and 21, thereof) when due, whether at stated maturity or by declaration or otherwise, and in case any such payments or obligations are not so made or performed the Lessee agrees punctually to pay or perform the same, irrespective of any enforcement against the Lessor of any of the rights of the Vendor under the Conditional Sale Agreement; *provided, however*, that there shall be no obligation upon the Lessee to make the payments or perform the obliga-

tions aforementioned in this § 17 while or for so long as the Lessee shall not be in default under this Lease. The Lessee hereby agrees that its obligations hereunder shall be unconditional (and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever) irrespective of the genuineness, validity, regularity or enforceability of this Lease or the Conditional Sale Agreement or any other conduct of the Lessor, the Vendor and/or the Lessee which might otherwise constitute a legal or equitable discharge of a surety or guarantor and irrespective of the last paragraph of Article 3 of the Conditional Sale Agreement or any other circumstances which might limit the recourse of the Vendor to the Lessor or of the Lessor or the Vendor to the Lessee. The Lessee hereby waives diligence, presentment, demand for payment, notice of dishonor and protest. No waiver by the Lessor or the Vendor of any of their respective rights hereunder and no action by the Lessor or the Vendor to enforce any of their respective rights or failure to take, or delay in taking, any such action shall affect the obligations of the Lessee hereunder or under the Conditional Sale Agreement.

It is understood and agreed between the Lessor and the Lessee that any and all sums paid by the Lessee pursuant to the guarantee obligations aforementioned in this § 17 shall be thereupon deemed to have been received and paid in reduction or satisfaction, to the extent thereof, of any amount then or thereafter due or payable by the Lessee to the Lessor under this Lease.

Subject to the foregoing, in the event that the Lessee shall make any payments to the Vendor under the Conditional Sale Agreement on account of its guaranty hereunder, the Lessee hereby covenants and agrees that it shall not acquire any rights, by subrogation or otherwise, against the Lessor or with respect to any of the Units by reason of such payments, all such rights being hereby irrevocably

released, discharged and waived by the Lessee; *provided, however*, that after the payment by the Lessee to the Vendor under the Conditional Sale Agreement of all sums payable by the Lessor under the Conditional Sale Agreement, the Lessee shall, by subrogation, be entitled to the rights of the Vendor under Conditional Sale Agreement against the Lessor by reason of any such payment made by it pursuant to this § 17, to the extent, but only to the extent, that the Lessor has received "income and proceeds from the Equipment" (as defined in Article 3 of the Conditional Sale Agreement) and has not applied such income and proceeds to the payment, in accordance with the Conditional Sale Agreement, of sums payable by the Lessor to the Vendor under the Conditional Sale Agreement.

§ 18. *Recording; Expenses.* Prior to the delivery and acceptance of any of the Units, the Lessor will, at the expense of the Lessor, cause this Lease and any assignment hereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and to be duly deposited in the office of the Registrar General of Canada; and the Lessor will, at the expense of the Lessor, cause the required notice of such deposit forthwith thereafter to be published in the *Canada Gazette* in accordance with Section 148 of the Railway Act of Canada.

The Lessee will, from time to time and at its expense, do and perform any act and will execute, acknowledge and deliver any and all further instruments required by law or reasonably requested by the Lessor for the purpose of proper protection, to the satisfaction of the Lessor and its counsel, of the Vendor's and the Lessor's respective interests hereunder in the Units, or for the purpose of carrying out the intention of this Lease and any assignment hereof. The Lessee will promptly furnish to the Vendor and the

Lessor evidence of such execution, acknowledgment and delivery.

The Lessor will pay the reasonable costs and expenses involved in the preparation and printing of this Lease. The Lessor and the Lessee will each, respectively, bear the fees and disbursements of any counsel which it may respectively retain.

§ 19. *Interest on Overdue Rentals.* Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay also an amount equal to 11% per annum of the amount of the overdue rentals for the period of time during which they are overdue.

§ 20. *Notices.* Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States certified mails, first-class postage prepaid, addressed as follows:

if to the Lessor, at 650 Madison Avenue, New York, N. Y. 10022, *attention of* the President;

if to the Lessee, at 131 West Lafayette Boulevard, Detroit, Michigan 48226, *attention of* the Secretary and at P. O. Box 8100, Montreal 101, Quebec, Canada, *attention of* the Treasurer;

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

§ 21. *Severability; Effect and Modification of Lease.* Any provision of this Lease which is prohibited or unen-

forceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

This Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the Units and supersedes all other agreements, oral or written, with respect to the Units. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the parties hereto.

§ 22. *Execution.* This Lease may be executed in several counterparts, each of which so executed shall be deemed to be an original, and in each case such counterparts together shall constitute but one and the same instrument.

Although this Lease is dated as of June 15, 1970, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§ 23. *Law Governing.* This Lease shall be construed in accordance with the laws of New York.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names by duly authorized officers and their respective corporate seals to be

hereunto affixed and duly attested, as of the date first above written.

C. I. T. CORPORATION,

by C. I. T. LEASING CORPORATION,
as Agent,

by
Vice President

[CORPORATE SEAL]

Attest:

.....
Assistant Secretary

GRAND TRUNK WESTERN RAILROAD
COMPANY,

by
Vice President

[CORPORATE SEAL]

Attest:

.....
Assistant Secretary

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On this day of , 1970, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of C. I. T. LEASING CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....

Notary Public

[NOTARIAL SEAL]

PROVINCE OF QUEBEC }
CITY OF MONTREAL } ss.:

On this day of , 1970, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of GRAND TRUNK WESTERN RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....

Notary Public

[NOTARIAL SEAL]

My commission is for life.

SCHEDULE A

<u>Type</u>	<u>Manufacturer's Plant</u>	<u>Quantity</u>	<u>Road Numbers (inclusive)</u>	<u>Unit Base Price</u>	<u>Total Base Price</u>
89'4" flush deck flat cars	Johnstown, Pennsylvania	68	GTW 303326- 303393	\$16.463	\$1,119,484

ANNEX D

ASSIGNMENT OF PURCHASE AGREEMENT

KNOW ALL MEN BY THESE PRESENTS, that as of June 15, 1970, GRAND TRUNK WESTERN RAILROAD COMPANY, a Michigan corporation (hereinafter called the Assignor), in consideration of the sum of \$10 and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, DOES HEREBY SELL, ASSIGN, TRANSFER AND SET OVER UNTO C. I. T. CORPORATION, a New York corporation (hereinafter called the Assignee), acting through its agent, C. I. T. LEASING CORPORATION, a Delaware corporation, all the Assignor's right, title and interest in and to that certain purchase agreement consisting of a manufacturer's proposal dated May 12, 1970, and the acceptance thereof dated May 27, 1970, as modified May 28, 1970 (hereinafter called the Purchase Agreement), between the Assignor and Bethlehem Steel Corporation (hereinafter called the Manufacturer) insofar as they relate to the railroad equipment (hereinafter called the Equipment) described in Annex B to the Conditional Sale Agreement dated as of June 15, 1970 (hereinafter called the Conditional Sale Agreement), between the Assignee and the Manufacturer, together with all and singular the Equipment and all right, title and interest now owned or hereafter acquired by the Assignor in and to the Equipment and in and to the Purchase Agreement except as provided in the Lease of Railroad Equipment dated as of June 15, 1970 (hereinafter called the Lease), between the Assignor and the Assignee, to have and to hold all and singular the Equipment and the Purchase Agreement to the Assignee and its assigns for its and their own use forever.

In furtherance and not in limitation of the foregoing, the Assignor recognizes that, concurrent with the execution and delivery of this Assignment, the Assignee is arranging for the purchase of the Equipment pursuant to the Condi-

tional Sale Agreement, which is being assigned pursuant to an Agreement and Assignment dated as of June 15, 1970 (hereinafter called the Assignment), between the Manufacturer and The First Pennsylvania Banking and Trust Company, as Agent, and that the Conditional Sale Agreement permits (under Articles 2 and 3 thereof) the exclusion therefrom of, and (under Article 3 thereof) nonpayment for, and the Assignment permits (under Section 5 thereof) nonpayment for, all or any portion of the Equipment under the circumstances described in said Articles and said Section. In respect thereof, the Assignor covenants with the Assignee, and the Manufacturer as third party beneficiary hereof, that, in the event of any such exclusion of or nonpayment for units of the Equipment, the Assignor will be obligated to accept all units of the Equipment completed and delivered by the Manufacturer and to pay the full purchase price therefor not later than 90 days after such payment was due, together with interest from the date such payment was due to the date of payment by the Assignor at the average prime rate of interest charged by the five largest New York City banks in effect at 11:00 a. m., New York City time, on the date such payment was due. Such payment by the Assignor shall be made in cash, either directly or, in case the Assignor shall arrange therefor, by means of a conditional sale, equipment trust or other appropriate method of financing as the Assignor shall determine. The Assignor warrants that none of the units of the Equipment has been delivered by the Manufacturer and no payment has been made in respect thereof to the Manufacturer.

The Assignor will indemnify, protect and hold harmless the Manufacturer, as third party beneficiary, from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including counsel fees,

arising out of retention by the Manufacturer of title to the Equipment, or out of the use and operation thereof during the period when title thereto remains in the Manufacturer; *provided, however*, that the Assignor shall not be required to indemnify the Manufacturer under this paragraph for negligence on the part of the Manufacturer or in respect of any breach by the Manufacturer of the covenants, representations and warranties made by the Manufacturer under the Conditional Sale Agreement.

The Assignor will further indemnify, protect and hold harmless the Manufacturer, as third party beneficiary, from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Manufacturer because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Assignor and not manufactured by the Manufacturer or of any design, system, process, formula or combination specified by the Assignor and not developed or purported to be developed by the Manufacturer which infringes or is claimed to infringe on any patent or other right.

The Assignor covenants with the Manufacturer, as third party beneficiary, to perform the undertakings contained in §§ 4, 5, 7, 8, 10 and 11 of the Lease.

The Assignor does hereby represent that it is the lawful owner, free from all liens, security interests and encumbrances, of the Purchase Agreement, that it has the right to sell and assign the Purchase Agreement as set forth herein and that it will warrant and defend this Assignment against the lawful claims and demands of all persons.

Settlement for the units of the Equipment to be acquired from the Manufacturer will be made under the Conditional Sale Agreement as provided in Article 3 thereof.

IN WITNESS WHEREOF, the Assignor has caused this Assignment to be duly executed as of the date first above written.

GRAND TRUNK WESTERN RAILROAD
COMPANY,

by
Vice President

[CORPORATE SEAL]

Attest:

.....
Assistant Secretary

The foregoing Assignment is hereby accepted as of June 15, 1970.

C. I. T. CORPORATION,

by C. I. T. LEASING CORPORATION,
as Agent,

by
Vice President

AGREEMENT AND ASSIGNMENT dated as of June 15, 1970, between the corporation first signing under the testimonium below (hereinafter called the Manufacturer), and THE FIRST PENNSYLVANIA BANKING AND TRUST COMPANY, whose address is Fifteenth and Chestnut Streets, Philadelphia, Pennsylvania 19101, acting as Agent under a Finance Agreement dated as of June 15, 1970 (hereinafter called the Finance Agreement and said Trust Company, so acting, being hereinafter called the Assignee).

WHEREAS, the Manufacturer and C. I. T. CORPORATION (hereinafter called the Company) have entered into a Conditional Sale Agreement dated as of June 15, 1970 (hereinafter called the Conditional Sale Agreement), covering the construction, sale and delivery, on the conditions therein set forth, by the Manufacturer and the purchase by the Company of the railroad equipment described in Annex B to the Conditional Sale Agreement (said equipment being hereinafter called the Equipment);

NOW, THEREFORE, THIS AGREEMENT AND ASSIGNMENT (hereinafter called this Assignment) WITNESSETH: That, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration paid by the Assignee to the Manufacturer, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

SECTION 1. The Manufacturer hereby assigns, transfers, and sets over unto the Assignee, its successors and assigns:

(a) All the right, title and interest of the Manufacturer in and to each unit of the Equipment;

to sell the Equipment and title to the Equipment was free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Company under the Conditional Sale Agreement and the rights of the Lessee under the Lease;

(b) Certificate or Certificates of Acceptance with respect to the Equipment in the Group as contemplated by Article 2 of the Conditional Sale Agreement and the Certificate or Certificates of Delivery pursuant to § 1 of the Lease;

(c) Certificate of an officer of the Lessee stating that prior to delivery and acceptance of units of the Equipment in the Group under the Conditional Sale Agreement and the Lease, none of the units of the Equipment was placed in the service of the Lessee or otherwise was used by the Lessee;

(d) Invoices for the Equipment in the Group accompanied by or having endorsed thereon a certification by the Company and the Lessee as to the correctness of the prices of such units as set forth in said invoices;

(e) Opinion dated as of such Closing Date of Messrs. Cravath, Swaine & Moore, who are acting as special counsel for the Assignee and for the Investors referred to in the Finance Agreement, addressed to the Assignee, stating that (i) the Finance Agreement has been duly authorized, executed and delivered by the Lessee and the Agent and is binding upon the Lessee, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the respective parties thereto and is a legal and valid instrument binding upon the parties thereto and enforceable in accordance with its terms, (iii) this Assignment, the Lease, the Lease Assignment and the Consent (as defined in

the Finance Agreement) have been duly authorized, executed and delivered by the respective parties hereto and are legal and valid instruments binding upon the parties hereto, (iv) the Assignee is vested with all the rights, titles, interests, powers, privileges and remedies purported to be assigned to it by this Assignment, (v) security title to the units of the Equipment in the Group is validly vested in the Assignee and the Equipment, at the time of delivery thereof to the Company under the Conditional Sale Agreement, was free of all claims, liens, security interests and other encumbrances except only the rights of the Company under the Conditional Sale Agreement and the rights of the Lessee under the Lease, (vi) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution and delivery of the Finance Agreement, the Conditional Sale Agreement, this Assignment, the Lease, the Lease Assignment or the Consent, or, if any approval is necessary, it has been obtained, (vii) the Conditional Sale Agreement, this Assignment, the Lease and the Lease Assignment have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, and no other filing, recording or deposit (or giving of notice) is necessary for the protection of the rights hereunder of the Assignee in any state of the United States of America or the District of Columbia and (viii) registration of the Conditional Sale Agreement, this Assignment or the certificates of interest delivered pursuant to the Finance Agreement is not required under the Securities Act of 1933, as amended, and qualification of an indenture with respect thereto is not required under the Trust Indenture Act of 1939, as amended;

(f) Opinion dated as of such Closing Date of counsel for the Company addressed to the Assignee, to the effect that (i) the Company is a duly organized and existing corporation in good standing under the laws of New York and has the power and authority to own its properties and to carry on its business as now conducted and (ii) the Conditional Sale Agreement, the Lease and the Lease Assignment have been duly authorized, executed and delivered on behalf of the Company and are valid and binding instruments enforceable against the Company in accordance with their terms;

(g) Opinion dated as of such Closing Date of counsel for the Lessee addressed to the Assignee and to the Company, to the effect set forth in clause (v) of subparagraph (e) above and stating that (i) the Lessee is a duly organized and existing corporation in good standing under the laws of Michigan and Indiana and has the power and authority to own its property and carry on its business as now conducted, (ii) the Finance Agreement, the Lease and the Consent have been duly authorized, executed and delivered by the Lessee and are binding upon the Lessee, (iii) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution and delivery of the Finance Agreement, the Lease or the Consent by the Lessee or the consummation of the transactions therein contemplated, or, if any approval is necessary it has been obtained and (iv) upon the due filing and recordation of the Conditional Sale Agreement, this Assignment, the Lease and the Lease Assignment with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, no other filing, recording or deposit (or giving of notice) is necessary for the protection of the rights hereunder of the Assignee or of the Company and the Assignee under

the Lease in any state of the United States of America or the District of Columbia;

(h) Opinion dated as of such Closing Date of Messrs. McCarthy & McCarthy, who are acting as special counsel for the Company, addressed to the Assignee and the Lessee, stating that (i) the Conditional Sale Agreement and this Assignment have been deposited in the office of the Registrar General of Canada and notice of such deposit has been duly published in the *Canada Gazette* in accordance with Section 148 of the Railway Act of Canada and counterparts of such documents have been duly filed in the office of the Provincial Secretary of Ontario, and no further act, filing, recording or deposit (or giving of notice) is required in order fully to protect the rights hereunder of the Assignee in the Conditional Sale Agreement and the Equipment in the Group in the Province of Ontario, Canada, against any and all subsequent purchasers or mortgagees and/or from creditors of the Company and the Lessee, (ii) the Lease and the Lease Assignment have been duly deposited in the office of the Registrar General of Canada and notice of such deposit has been duly published in the *Canada Gazette* in accordance with Section 148 of the Railway Act of Canada and a counterpart of such documents have been duly filed in the office of the Provincial Secretary of the Province of Ontario and no other act, filing, recording or deposit (or giving of notice) in respect of the Lease is necessary in order to protect the interests thereunder of the Company and the Vendor in and to the Equipment in Canada, (iii) the Guarantor referred to in the Lease is a corporation legally incorporated and validly existing, in good standing, under the laws of the jurisdiction of its incorporation, with adequate corporate power to enter into the Guaranty Agreement (as

defined in the Lease), (iv) the Guaranty Agreement has been duly authorized, executed and delivered by the Guarantor and constitutes a legal and valid agreement binding upon the Guarantor and enforceable against the Guarantor in accordance with its terms, and (v) no approval is required from any governmental ministry or agency or public regulatory body in Canada with respect to the entering into or performance of the Guaranty Agreement by the Guarantor, or if any such approval is required, such approval has been duly obtained;

(i) Opinion dated as of such Closing Date of counsel for the Manufacturer addressed to the Assignee, to the effect set forth in clauses (iv) and (v) of subparagraph (e) above and stating that (i) the Manufacturer is a duly organized and existing corporation in good standing under the laws of the state of its incorporation and has the power and authority to own its properties and to carry on its business as now conducted and (ii) the Conditional Sale Agreement and this Assignment have been duly authorized, executed and delivered by the Manufacturer and are valid instruments binding upon the Manufacturer and enforceable against the Manufacturer in accordance with their terms; and

(j) Unless payment of the amount, if any, payable under Article 3 of the Conditional Sale Agreement shall be made by the Assignee with funds furnished to it for that purpose by the Company, a receipt from the Manufacturer for such payment.

In giving the opinions specified in this Section 5, counsel may qualify any opinion to the effect that (i) any agreement is a legal and valid instrument binding upon the parties thereto and enforceable in accordance with its terms by a general reference to limitations as to enforce-

to sell the Equipment and title to the Equipment was free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Company under the Conditional Sale Agreement and the rights of the Lessee under the Lease;

(b) Certificate or Certificates of Acceptance with respect to the Equipment in the Group as contemplated by Article 2 of the Conditional Sale Agreement and the Certificate or Certificates of Delivery pursuant to § 1 of the Lease;

(c) Certificate of an officer of the Lessee stating that prior to delivery and acceptance of units of the Equipment in the Group under the Conditional Sale Agreement and the Lease, none of the units of the Equipment was placed in the service of the Lessee or otherwise was used by the Lessee;

(d) Invoices for the Equipment in the Group accompanied by or having endorsed thereon a certification by the Company and the Lessee as to the correctness of the prices of such units as set forth in said invoices;

(e) Opinion dated as of such Closing Date of Messrs. Cravath, Swaine & Moore, who are acting as special counsel for the Assignee and for the Investors referred to in the Finance Agreement, addressed to the Assignee, stating that (i) the Finance Agreement has been duly authorized, executed and delivered by the Lessee and the Agent and is binding upon the Lessee, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the respective parties thereto and is a legal and valid instrument binding upon the parties thereto and enforceable in accordance with its terms, (iii) this Assignment, the Lease, the Lease Assignment and the Consent (as defined in

the Finance Agreement) have been duly authorized, executed and delivered by the respective parties hereto and are legal and valid instruments binding upon the parties hereto, (iv) the Assignee is vested with all the rights, titles, interests, powers, privileges and remedies purported to be assigned to it by this Assignment, (v) security title to the units of the Equipment in the Group is validly vested in the Assignee and the Equipment, at the time of delivery thereof to the Company under the Conditional Sale Agreement, was free of all claims, liens, security interests and other encumbrances except only the rights of the Company under the Conditional Sale Agreement and the rights of the Lessee under the Lease, (vi) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution and delivery of the Finance Agreement, the Conditional Sale Agreement, this Assignment, the Lease, the Lease Assignment or the Consent, or, if any approval is necessary, it has been obtained, (vii) the Conditional Sale Agreement, this Assignment, the Lease and the Lease Assignment have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, and no other filing, recording or deposit (or giving of notice) is necessary for the protection of the rights hereunder of the Assignee in any state of the United States of America or the District of Columbia and (viii) registration of the Conditional Sale Agreement, this Assignment or the certificates of interest delivered pursuant to the Finance Agreement is not required under the Securities Act of 1933, as amended, and qualification of an indenture with respect thereto is not required under the Trust Indenture Act of 1939, as amended;

(f) Opinion dated as of such Closing Date of counsel for the Company addressed to the Assignee, to the effect that (i) the Company is a duly organized and existing corporation in good standing under the laws of New York and has the power and authority to own its properties and to carry on its business as now conducted and (ii) the Conditional Sale Agreement, the Lease and the Lease Assignment have been duly authorized, executed and delivered on behalf of the Company and are valid and binding instruments enforceable against the Company in accordance with their terms;

(g) Opinion dated as of such Closing Date of counsel for the Lessee addressed to the Assignee and to the Company, to the effect set forth in clause (v) of subparagraph (e) above and stating that (i) the Lessee is a duly organized and existing corporation in good standing under the laws of Michigan and Indiana and has the power and authority to own its property and carry on its business as now conducted, (ii) the Finance Agreement, the Lease and the Consent have been duly authorized, executed and delivered by the Lessee and are binding upon the Lessee, (iii) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution and delivery of the Finance Agreement, the Lease or the Consent by the Lessee or the consummation of the transactions therein contemplated, or, if any approval is necessary it has been obtained and (iv) upon the due filing and recordation of the Conditional Sale Agreement, this Assignment, the Lease and the Lease Assignment with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, no other filing, recording or deposit (or giving of notice) is necessary for the protection of the rights hereunder of the Assignee or of the Company and the Assignee under

the Lease in any state of the United States of America or the District of Columbia;

(h) Opinion dated as of such Closing Date of Messrs. McCarthy & McCarthy, who are acting as special counsel for the Company, addressed to the Assignee and the Lessee, stating that (i) the Conditional Sale Agreement and this Assignment have been deposited in the office of the Registrar General of Canada and notice of such deposit has been duly published in the *Canada Gazette* in accordance with Section 148 of the Railway Act of Canada and counterparts of such documents have been duly filed in the office of the Provincial Secretary of Ontario, and no further act, filing, recording or deposit (or giving of notice) is required in order fully to protect the rights hereunder of the Assignee in the Conditional Sale Agreement and the Equipment in the Group in the Province of Ontario, Canada, against any and all subsequent purchasers or mortgagees and/or from creditors of the Company and the Lessee, (ii) the Lease and the Lease Assignment have been duly deposited in the office of the Registrar General of Canada and notice of such deposit has been duly published in the *Canada Gazette* in accordance with Section 148 of the Railway Act of Canada and a counterpart of such documents have been duly filed in the office of the Provincial Secretary of the Province of Ontario and no other act, filing, recording or deposit (or giving of notice) in respect of the Lease is necessary in order to protect the interests thereunder of the Company and the Vendor in and to the Equipment in Canada, (iii) the Guarantor referred to in the Lease is a corporation legally incorporated and validly existing, in good standing, under the laws of the jurisdiction of its incorporation, with adequate corporate power to enter into the Guaranty Agreement (as

defined in the Lease), (iv) the Guaranty Agreement has been duly authorized, executed and delivered by the Guarantor and constitutes a legal and valid agreement binding upon the Guarantor and enforceable against the Guarantor in accordance with its terms, and (v) no approval is required from any governmental ministry or agency or public regulatory body in Canada with respect to the entering into or performance of the Guaranty Agreement by the Guarantor, or if any such approval is required, such approval has been duly obtained;

(i) Opinion dated as of such Closing Date of counsel for the Manufacturer addressed to the Assignee, to the effect set forth in clauses (iv) and (v) of subparagraph (e) above and stating that (i) the Manufacturer is a duly organized and existing corporation in good standing under the laws of the state of its incorporation and has the power and authority to own its properties and to carry on its business as now conducted and (ii) the Conditional Sale Agreement and this Assignment have been duly authorized, executed and delivered by the Manufacturer and are valid instruments binding upon the Manufacturer and enforceable against the Manufacturer in accordance with their terms; and

(j) Unless payment of the amount, if any, payable under Article 3 of the Conditional Sale Agreement shall be made by the Assignee with funds furnished to it for that purpose by the Company, a receipt from the Manufacturer for such payment.

In giving the opinions specified in this Section 5, counsel may qualify any opinion to the effect that (i) any agreement is a legal and valid instrument binding upon the parties thereto and enforceable in accordance with its terms by a general reference to limitations as to enforce-

ability imposed by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally and (ii) such opinion does not pass upon questions involving interest on interest. In giving the opinions specified in subparagraphs (e) and (g) of the first paragraph of this Section 5, counsel may in fact rely as to the title to the units of the Equipment in the Group at the time of delivery to the Company upon the opinion of counsel for the Manufacturer. In giving the opinions specified in subparagraphs (e) and (f) of the first paragraph of this Section 5, counsel may in fact rely, as to any matters governed by the law of any jurisdiction other than New York or the United States on the opinions of counsel for the Manufacturer or the Lessee as to such matters.

The obligation of the Assignee hereunder to make payment for any Group of the Equipment is hereby expressly conditioned upon the prior receipt by the Assignee, pursuant to the Finance Agreement, of all the funds required to be furnished to the Assignee under the Finance Agreement by the Investors referred to therein prior to the Closing Date in respect of such Group and upon payment by the Company of the amount required to be paid by it pursuant to subparagraph (a) of the third paragraph of Article 3 of the Conditional Sale Agreement.

The Assignee shall not be obligated to make any of the above-mentioned payments at any time while an event of default, or any event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement will constitute an event of default, shall be subsisting under the Conditional Sale Agreement.

In the event that the payments required to be made by the Assignee herein shall not be paid, the Assignee shall reassign to the Manufacturer, without recourse to the Assignee, all rights, title and interest of the Assignee in and

to the units of the Equipment in the Group with respect to which such payment has not been made by the Assignee.

SECTION 6. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payments due or to become due to it from the Company thereunder. In the event of any such assignment any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 7. The Manufacturer hereby:

(a) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was duly authorized and lawfully executed and delivered by it for a valid consideration, that (assuming due authorization, execution and delivery by the Company) it is a valid and existing agreement binding upon the Manufacturer and the Company and that it is now in force without amendment thereto; and

(b) covenants and agrees that it will from time to time and at all times, at the request of the Assignee or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be.

SECTION 8. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of New York.

SECTION 9. This Assignment may be executed in any number of counterparts, but the counterpart delivered to the Assignee shall be deemed to be the original counterpart. Although this Assignment is dated as of June 15, 1970, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgements hereto annexed.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers or officials duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

BETHLEHEM STEEL CORPORATION,

by J. J. Walker
Vice President

[CORPORATE SEAL]

Attest:

.....
Assistant Secretary

THE FIRST PENNSYLVANIA
BANKING AND TRUST COMPANY,
as Agent,

by Wm. H. ...
Vice President

[CORPORATE SEAL]

Attest:

.....
Assistant Secretary

COMMONWEALTH OF PENNSYLVANIA } ss.:
COUNTY OF NORTHAMPTON

On this 15th day of July, 1970, before me personally appeared **J. H. WALKER**, to me personally known, who, being by me duly sworn, says that he is a Vice President of BETHLEHEM STEEL CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.... Evelyn S. Marks....

Notary Public My Commission Expires
City of Bethlehem
Northampton County
October 13, 1970

[NOTARIAL SEAL]

My commission expires:

COMMONWEALTH OF PENNSYLVANIA } ss.:
COUNTY OF PHILADELPHIA

On this 17th day of July, 1970, before me personally appeared **W. M. KRAYER**, to me personally known, who, being by me duly sworn, says that he is a Vice President of THE FIRST PENNSYLVANIA BANKING AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

..... Judith B. Tate.....

Notary Public

[NOTARIAL SEAL]


My commission expires:

JUDITH B. TATE
Notary Public, Philadelphia Co.
My Commission Expires January 28, 1974

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of, the assignment made by the foregoing Agreement and Assignment is hereby acknowledged as of June 15, 1970.

C. I. T. CORPORATION,
by C. I. T. LEASING CORPORATION,
as Agent

by  Vice President